

INTEGRITY AND SECURITY AT THE BORDER  
THE US—VISIT PROGRAM

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON INFRASTRUCTURE  
AND BORDER SECURITY  
OF THE  
SELECT COMMITTEE ON HOMELAND  
SECURITY  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED EIGHTH CONGRESS  
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## INTEGRITY AND SECURITY AT THE BORDER THE US—VISIT PROGRAM

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Wednesday, January 28, 2004

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON INFRASTRUCTURE AND BORDER SECURITY,  
SELECT COMMITTEE ON HOMELAND SECURITY,  
*Washington, D.C.*

The subcommittee met, pursuant to call, at 11:04 a.m., in Room 345, Cannon House Office Building, Hon. Kay Granger [vice-chairwoman of the subcommittee] presiding.

Present: Representatives Granger, Dunn, Diaz–Balart, Shadegg, Sweeney, Cox, Sanchez, Markey, Dicks, Pascrell, Turner and Christensen.

Ms. GRANGER. [Presiding.] The Subcommittee on Infrastructure and Border Security hearing will come to order.

As vice chair of the subcommittee, I am sitting in for Chairman Dave Camp who is prevented from attending by a Michigan snow storm. I know we will all understand that.

I would like to welcome and thank you for attending today's hearing.

I see that the gentlelady from the Virgin Islands is here.

The chair asks for unanimous consent that Ms. Christensen be allowed to sit and question the panel.

Today's business is to receive testimony regarding the new border management system to record the arrival and departure of foreign nationals into the U.S.—the United States Visitor and Immigrants Status Indicator Technology program, which we call US—VISIT.

This hearing will have two panels. The subcommittee will hear first from Border and Transportation Security Undersecretary Asa Hutchinson from the Department of Homeland Security, and Consular Affairs Assistant Secretary Maura Harty from the Department of State.

We will then hear from a second panel comprised of James May, the president and CEO of the Air Transport Association; Kathleen Campbell Walker, a member of the board of directors of the El Paso Foreign Trade Association and a member of the American Immigration Lawyers Association; and Dennis Carlton, the director of Washington operations for the International Biometric Group.

Thank you all for your participation.

The subcommittee is also expecting several additional statements from outside groups that will be included in the hearing record.

The chair would like to remind members that we have two very qualified panels here with a great deal to contribute to the discussion of the US-VISIT program.

In order to allow sufficient time for their testimony and questions, the chair will urge members to give short statements and to submit their full opening statements for the record. The record will remain open for ten days after the close of the hearing. Members are advised that they will receive an additional three minutes during the question time if they waive their opening statement.

The chair will begin with a short opening statement.

The terrorist attacks of September 11, 2001 highlighted the need to improve our national security by improving integrity in the U.S. immigration system.

As a nation, we must have reliable methods for identifying aliens who are inadmissible to the country as well as those who overstay their lawful admission period.

At the same time, we cannot create policies or programs that discourage or delay or prevent legitimate travel, commerce and tourism.

The US-VISIT is an extensive border management system developed to monitor the arrival and departure of foreign nationals within the United States and to improve the reliability and security of their travel documents.

The US-VISIT program will be implemented in phases over the next several years to comply with congressional mandate.

As envisioned, foreign nationals traveling to the United States will have their fingerprints captured and authenticated at U.S. ports of entry. This biometric information we enter into and compare with prints already in the automated biometric identification system called IDENT.

Additionally, the biometrics will be checked when the individual exits the country to confirm identity.

The alien's biographic information, including name and place of birth, are checked through the Interagency Border Inspection Systems, IBIS, which includes law enforcement, immigration and intelligence databases to determine whether the individual is a threat to national security, public safety or is otherwise inadmissible.

Travelers entering the U.S. through the visa waiver program will not be affected by the biometrical requirements of US-VISIT. This program allows nationals from 27 countries to enter the U.S. as temporary visitors without first obtaining a visa.

Travelers entering through this program are still screened through the IBIS database. However, under current law, by October 26, 2004, visa-waiver countries have to issue biometric passports. Under this mandate, the biometric requirement for visa-waiver travelers will be similar under US-VISIT.

The State Department plays a complementary role in the US-VISIT program. State is in the process of equipping overseas embassies and consular posts with the ability to capture biometrics at the time of interview.

The key benefit of this initiative is that by comparing the visa information from State with that taken at primary inspection, Customs and Border Protection inspectors will have additional assurance that an alien's visa is reliable.

Currently 50 consular posts are equipped to capture fingerprints and photographs, and the remaining facilities are on schedule to begin capturing biometrics by the congressional deadline of October 26, 2004.

In November 2003, DHS began the pilot for the implementation of phase one at Hartsfield-Jackson International Airport in Atlanta. During the voluntary pilot, over 20,000 individuals were screened through US-VISIT. And the system turned up over 20 hits on inadmissible or wanted people.

DHS estimates that capturing the biometric information adds approximately 15 to 18 extra seconds to an individual's processing time.

On January 5, 2004, DHS added biometric collection for all arriving visa holders at 115 airports and 14 seaports.

Two pilot programs for the exit component are under way at Baltimore-Washington National Airport and the Port of Miami.

A persistent issue in all border security programs is finding the right balance between security and legitimate travel for tourism and commerce. There is concern from several stakeholders about the impact US-VISIT will have on travel and trade, particularly at the land borders. Some fear that the program will create massive delays at border crossings.

The United States has more than 300 land, air and sea ports of entry where international travelers are inspected and permitted to enter the United States. Each year, more than 500 million people enter the United States. This hearing will provide an opportunity to explore the implementation at the land border and the different options under considerations for the rollout.

Coming from a border state, I am particularly interested in different plans and proposals for the ports of entry. Any additional delays will have serious consequence for communities on both sides of the border.

Over time, US-VISIT promises to strengthen the integrity of the border security system.

The US-VISIT will improve the accuracy and consistency of detecting fraudulent travel documents, verifying traveler identity and determining traveler admissibility.

Again, I would like to thank our witnesses for being here. I will conclude my remarks and enter my full statement for the record.

PREPARED OPENING STATEMENT OF THE HONORABLE KAY GRANGER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, AND VICE CHAIR, INFRASTRUCTURE AND BORDER SECURITY SUBCOMMITTEE

The terrorist attacks of September 11, 2001, highlighted the need to improve national security by improving integrity in the U.S. immigration system. As a nation, we must have reliable methods for identifying aliens who are inadmissible to the country as well as those who overstay their lawful admission periods. At the same time, we can not create policies or programs that discourage, delay or prevent legitimate travel, commerce, and tourism.

The US-VISIT Program is an extensive border management system developed to monitor the arrival and departure of foreign nationals within the United States and to improve the reliability and security of their travel documents.

The US-VISIT Program will be implemented in phases over the next several years to comply with Congressional mandates. As envisioned, foreign nationals traveling to the United States will have their fingerprints captured and authenticated at US ports of entry. This biometric information will be entered into and compared with prints already in the Automated Biometric Identification System called

IDENT. Additionally, the biometrics will be checked when the individual exits the country to confirm identity.

The alien's biographic information, including name and place of birth, are checked through the Interagency Border Inspection System (IBIS), which includes law enforcement, immigration and intelligence databases to determine whether the individual is a threat to national security, public safety, or is otherwise inadmissible.

Travelers entering the U.S. through the Visa Waiver Program will not be affected by the biometric requirements of US-VISIT. This program allows nations from 27 countries to enter the U.S. as temporary visitors without first obtaining a visa. Travelers entering through this program are still screened through the IBIS database. However, under current law, by October 26, 2004 Visa Waiver countries have to issue biometric passports. Under this mandate, the biometric requirements for Visa Waiver travelers will be similar to those under US-VISIT.

The State Department plays a complementary role in the US-VISIT Program. State is in the process of equipping overseas embassies and consular posts with the ability to capture biometrics at the time of the interview.

The key benefit of this initiative is that by comparing the visa information from State with that taken at primary inspection, Customs and Border Protection Inspectors will have additional assurance that an alien's visa is reliable. Currently, 50 consulate posts are equipped to capture fingerprints and photographs and the remaining facilities are on schedule to begin capturing biometrics by the Congressional deadline of October 26, 2004.

In November 2003, DHS began the pilot for the implementation of Phase One at Hartsfield-Jackson International Airport in Atlanta. During the voluntary pilot over 20,000 individuals were screened through US-VISIT and the system turned up over 20 hits on inadmissible or wanted people. DHS estimates that capturing the biometric information adds approximately 15-18 extra seconds to an individual's processing time. On January 5, 2004, DHS added biometric collection for all arriving visa holders at 115 airports and 14 seaports. Two pilot programs for the Exit component are underway at Baltimore Washington International (BWI) Airport and the Port of Miami.

A persistent issue in all border security programs is finding the right balancing between security and legitimate travel for tourism and commerce. There is concern from several stakeholders about the impact US-VISIT will have on travel and trade, particularly at the land borders. Some fear that the program will create massive delays at border crossings. The United States has more than 300 land, air, and sea ports of entry where international travelers are inspected and permitted to enter the United States. Each year, more than 500 million people enter the U.S. This hearing will provide an opportunity to explore the implementation at the land border and the different options under consideration for the roll-out.

Coming from a border state, I am particularly interested in different plans and proposals for land ports of entry. Any additional delays will have serious consequences for communities on both sides of the border.

Over time, US-VISIT promises to strengthen the integrity of the border security system. The US-VISIT Program will improve the accuracy and consistency of detecting fraudulent travel documents, verifying traveler identity, and determining traveler admissibility.

Again, I would like to thank our witnesses for being here. I will conclude my remarks and enter my full statement for the record.

The chair now recognizes Ms. Sanchez, the ranking member of the Subcommittee on Infrastructure and Border Security for any statement she may have.

Ms. Loretta SANCHEZ of California. Thank you Madam Chair. And it is a shame that Chairman Camp could not be here, but we will slog on, as they say.

I appreciate all of you here today also.

Welcome back to our former colleague.

Because this US-VISIT program is very important to us, I doubt that there is one member on this subcommittee who disagrees how important and with the aims of this program.

But I have to admit that some of us on this subcommittee wonder if the US-VISIT program, as it currently operates, is really the most effective tool to deter potential terrorism for the United States.



Also, Customs and Border Protection officers are already being stretched thin under the new US-VISIT entry system. And we still have not really added the exit system and implementing phase two and phase three.

I think we will only strain them further.

A true entry-exit system makes a lot more sense than the system that US-VISIT is in the process of checking people as they arrive in the country but having no idea when they have left.

I also think that most of us believe it is a good idea to have more sophisticated visas and passports that contain more information about these people, including the biometric information that can give us a better verification of a person's identity.

And I know that others share them, are with the efficiency of the US-VISIT as a security tool, and also with the implementation of this program.

I know that the program will enhance security to some degree, but I am wonder how much. If the visa-waiver countries are not required to participation in the US-VISIT, then isn't that a big security hole?

I know that there are also plans for secure passports from these visa-waiver countries. We were just in Europe discussing some of these issues with some of those countries, some of which, to tell you the truth, are having some difficulty trying to figure how they are really going to comply with this by the deadline that we set.

I guess I don't understand the relationship between the US-VISIT program and this issue of the biometrics involved in the passports of these visa-waiving countries. For example, will there be different databases used?

And my number one concern is simply the overextension of the people that we have doing this work. Are we making enough investment in personnel and the infrastructure necessary to ensure that all these components come together and that in fact we have a system that is going to work for entry and exit into this country?

Because the implementation of phase one of the US-VISIT means that the entry and exit data from airplane passenger manifests at the 115 airports and the cruise-ship passenger manifests at the 14 seaports must be reconciled, thereby being able to tell us if people are actually overstaying their visas.

It is a very complicated issue. And so I hope that today you can shed some light on this.

I would just give one example that I just see as being a major problem. Because right now, the checkouts that we have is this pilot program with the kiosk at the airport, for example. What if somebody forgets to do that or does not do that?

And then they are a legitimate good person, they are coming back into the country the next time, and now we have all these false positives and we have got to pull these people aside, and it requires more resources and more of our time.

And in talking to some of my customs and border people, they are already feeling like they are being pulled off of cargo inspections in order to do green card holders and others to try to get the entry portion of this US-VISIT going.

So maybe what we are doing is, possibly making ourselves safer in one aspect, but really taking the eye off another area that might be of concern to us, that of checking the cargo.

So I look forward to hearing from our panels and getting some answers to these question.

And, again, thank you, Madam Chairman, for the time and for having this hearing.

Ms. GRANGER. Thank you very much.

The chairman now recognizes Representative Cox, chairman of the Homeland Security Select Committee for any statement he may have.

Mr. COX. Thank you Madam Vice Chairman.

Let me begin by commending our absent Subcommittee Chairman Camp, who as you heard is bogged down in a Michigan snowstorm, for scheduling this important hearing today. I know he did a lot of work on this and looked forward to being here, and he would be very pleased to welcome our witnesses himself.

This is important to him and to all of us because our country faces no greater challenge today than monitoring over 300 U.S. ports of entry for potential terrorist crossings, while at the same time facilitating the legitimate trade and travel and tourism that are the hallmarks of our free society.

The US-VISIT program is designed to meet this challenge. And our witnesses today will give us an update on the progress we are making.

I am especially pleased to welcome back Undersecretary Asa Hutchinson to this committee. I, along with many on this committee, know him as an esteemed former colleague and a friend, and most importantly, as an extraordinarily capable leader who is well equipped to lead the Department of Homeland Security on border transportation and security issues.

Since assuming his position, Undersecretary Hutchinson has supervised one of the largest reorganizations of our government in history.

Among other accomplishments, his tenure has seen the successful implementation of the first phase of the US-VISIT program on schedule and indeed ahead of schedule with respect to the use of biometric identifiers.

The department should be commended for meeting the statutory requirement and deadline for an automated entry and exit system.

And all air-and sea-port passenger arrival and departure information is now collected and processed through the US-VISIT program. This gives us the ability for the first time in our history to create a list of those overstay their visas.

Undersecretary Hutchinson, we look forward to hearing from you today on how DHS is implementing this program at our air and sea ports of entry. We were especially interested in your plan for the eventual rollout of the program to all of our border points of entry, including land ports, and the handshake that US-VISIT will make with interior enforcement.

I also look forward to hearing from Ms. Harty on the State Department's efforts to ensure greater security with respect to visa applicants. The State Department can also inform us of the status

of the 27 visa-waiver countries we have asked to add biometric identifiers to their passports.

The role of the State Department's Bureau of Consular Affairs has been vital to the effective implementation of US-VISIT. Consular officials at 211 visa processing posts are the frontline in our efforts to prevent would-be terrorists from entering the United States.

When precise biometric data is captured overseas and linked in real time to the Department of Homeland Security and other federal agencies, we will be able to screen each visa applicant against federal law enforcement databases and terrorist watch lists.

We will also be able to ensure that a person arriving at one of our ports of entry is the same person who obtained a visa at our overseas consulate.

The US-VISIT program is a work in progress. But it is a work that is moving ahead very rapidly.

During the recently concluded pilot phase at Atlanta's Hartsville International Airport, US-VISIT stopped several dangerous criminals and others using false information from entering the United States.

The biometric enter-exit system contemplated by US-VISIT will add integrity to our immigration progress. Just as importantly, it is consistent with maintaining a defining American tradition: opening our nation to legitimate travel, business and tourism.

In just 15 seconds per visit, US-VISIT adds a layer of protection to our border security system and permits our Border Protection officers to focus their efforts on those that warrant closer scrutiny.

But as I say, this is a work in progress and we have a lot more hard work to do.

The US-VISIT program has not yet integrated all of the existing law enforcement and terrorist databases into its search capabilities. This is a complex task, and it needs additional attention.

And while the rollout of the entry portion of the solution has achieved great success, the exit portion of the program is not yet fully delved with respect to the capture of biometric data. This, too, is an important element because it allows the system to verify that the person leaving our country is the same person who entered.

We also need additional procedural guidance for travelers trying to comply with the biometric exit requirements of the US-VISIT program.

There are many questions about how this exit system actually will be implemented.

There are also many questions about the eventual rollout of the US-VISIT program at all of our land ports of entry.

Current law requires that DHS expand the entry-exit program to the top 50 high-traffic land border ports by December 31st of this year and the remaining entry points by December 31, 2005.

Is this a realistic goal? Do we have the technology? Do we have the other essential infrastructure in place to accommodate this plan without severely compromising the free flow of goods and people.

Finally, under the visa-waiver program, citizens of 27 nations are not required to obtain visas to enter the United States and thus are not part of the US-VISIT program. But under current law,

these countries will have to encode all of their newly issued passports with biometric data beginning on October 26th of this year.

Reports indicate that the majority of the 27 visa-waiver countries will not be able to meet this deadline. As a result, current law could be interpreted to require that the citizens of these countries obtain visas. This would cause a dramatic increase in visa applications to our consulates and strain relations with our closest allies.

It is also uncertain whether we would be able to accommodate any such increase in applications.

Next month, members of this committee will visit Miami, the U.S. Virgin Islands and Guantanamo Bay as part of our homeland security oversight responsibilities. We will examine security at air and sea ports in those locations, and we will witness the US-VISIT program in practice.

This visit will be another expression of the committee's interest in this important program and of our intention to exercise responsible and effective oversight in this area.

Again, I want to thank our witnesses for coming to today's hearing.

I want to thank our vice chairman for your consideration during this opening statement, and I yield back the balance of my time.

Ms. GRANGER. Thank you.

The chair will now recognize Ranking Member Turner for any statements he may have.

Mr. TURNER. Thank you, Madam Chairman.

I am very pleased that the subcommittee has taken up the issue of US-VISIT. Over the past two days I have been watching some of the hearings before the National Commission on Terrorist Attacks and the witnesses that have appeared before the commission. And those hearings remind us once again of the gravity of the responsibility that we have before us.

This Select Committee on Homeland Security is very much the place where this issue must be vigorously examined and where we must exercise strong oversight.

We all have a duty to make America safer.

And I thank the chairman and the ranking member of this subcommittee for calling this hearing.

One month into the launch of US-VISIT is certainly the time to ensure that we begin rigorous oversight.

Our obligation is to assess the effectiveness of the program as a counterterrorism tool. And while I believe that US-VISIT has potential, there are many questions that we must all be willing to address.

First, will the US-VISIT program be implemented with a comprehensive terrorist watch list so as to be most effective in identifying and assisting in the apprehension of suspected terrorists.

Secondly, do the program's current exemptions as to who must participate create vulnerabilities that diminish the effectiveness of US-VISIT as a counterterrorism tool?

And thirdly, can it be implemented effectively at all of our air, sea and land ports of entry?

Obviously, much of the success of US-VISIT depends upon intelligence information. I am a strong believer that border security systems and programs are only as good as the intelligence they are

able to access. The information must be reliable and provided to those who make decisions allowing the entry of foreign visitors to our country in a time frame that is meaningful. And I look forward to hearing testimony that addresses these issues.

I also believe that while we are securing our borders, we must not change the vision of America as a welcoming nation. We are enriched by the cultural, political and social contributions of those who visit our country.

As a Texan, I am also very much aware of the economic need to ensure that our borders function smoothly, that our homeland and economic security are closely linked, and that if we are to succeed in securing our homeland, facilitating cross-border trade and travel must be a part of the equation.

We can achieve all of these goals—homeland security and growth and trade and travel—if our vision includes the willingness to make the necessary investments in ports of entry in our border and border communities.

We know that implementing US-VISIT is not going to be easy. The challenges are greatest at our land borders. Land border crossings are fundamentally different from airports and seaports. You don't receive much advanced data on people or cargo coming to a land border crossing. At many border crossings, you have to deal with both passenger and cargo inspections. If there is a backup either entering or leaving the United States, our border communities pay a high price.

Lastly, US-VISIT implementation at our land borders must involve the full participation of our neighbors to the north and the south. If US-VISIT is going to be effective, we must work with Mexico and Canada to ensure that implementation does not result in a gridlocked border that benefits no one. If we can secure the full cooperation of our neighbors, implementing US-VISIT will be much more likely.

I look forward to hearing from all of our witnesses today.

And again I thank the chairman of the full committee and the chairman of this subcommittee for holdings this hearing at this time.

I thank you, Madam Vice Chairman.

PREPARED STATEMENT OF THE HONORABLE JIM TURNER, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF TEXAS

I am very pleased that this subcommittee has taken up the issue of US-VISIT. Over the past two days I have been paying careful attention to the hearings before the National Commission on Terrorists Attacks and the testimony of witnesses before that Commission. The hearings once again remind us of the gravity of the responsibility before us—that this Select Committee on Homeland Security has the very great obligation to find existing holes in homeland security and address those vulnerabilities.

We have a duty to make America safer.

I thank the Chairman and the Ranking Member in calling for this hearing. One month into the launch of US-VISIT it is certainly time to ensure that we have rigorous oversight of the program.

Our obligation is to assess the effectiveness of this program as a counter-terrorism tool. While I believe US-VISIT has potential, there are many issues that need to be addressed:

- Will the US-VISIT program be implemented with a comprehensive terrorist watch list, so as to be most effective in identifying and assisting in the apprehension of suspected terrorists?

- Do the program's current exemptions as to who must participate create vulnerabilities that diminish the effectiveness of US-VISIT as a counter-terrorism tool?
- Can it be implemented effectively at all of our air, sea and land ports of entry?

Much of the success of US-VISIT depends on intelligence information.

I am a strong believer that border security systems and programs are only as good as the intelligence they are able to access. The information must be reliable, and provided to those who make decisions allowing the entry of foreign visitors to our country.

I look forward to hearing testimony that addresses these issues.

I also believe that while we are securing our borders, we must not change the vision of America as a welcoming nation. We are enriched by the cultural, political and social contributions of those who visit our country.

As a Texan, I also understand the economic need to ensure that our borders function smoothly, that our homeland and economic security are closely linked and that if we are to succeed in securing our homeland, facilitating cross border trade and travel must be a part of the equation.

We can achieve all of these goals- homeland security and economic security—if our vision includes investing in ports of entry and in the border and border communities.

We know that US-VISIT implementation is not going to be easy. The challenge is greatest at our land borders. Land border crossings are fundamentally different from air ports and sea ports. You do not receive much advance data on the people or cargo coming across the border. At many border crossings you have to deal with both passenger and cargo inspections. If there is a backup either entering or leaving the US, our border communities pay the price.

Lastly, US-VISIT implementation at our land borders must involve the full participation of our neighbors to the north and the south. If US-VISIT is going to be effective, we must work with Mexico and Canada to ensure that implementation does not result in a gridlocked border that benefits no one. If we cannot secure the cooperation of our neighbors in implementing the US-VISIT system, it simply will not succeed. I look forward to the testimony of our witnesses today.

Ms. GRANGER. Thank you.

The chair now recognizes Representative Dunn, who serves as vice chair of the full committee.

Ms. DUNN. Thank you very much, Madam Chairman.

Good morning, ladies and gentlemen.

I am glad we have a full house today because it is important that we all understand exactly how this program came into being and where it is going.

The US-VISIT program has been the focus of much attention in the last few months. And I look forward to learning about the progress, for example, that the Department of Homeland Security is making in implementing the new system at airports and sea-ports.

I also look forward to discussing the challenges that are certain to come along with the starting of such a program at our land border crossings.

This program is of particular interest to this committee because it is an example of federal partnership that were envisioned during the actual creation of the Department of Homeland Security.

The US-VISIT program is a result of the pooled resources of and the open communication among the State Department, TSA, the Department of Justice, Immigration and Customs Enforcement—or ICE as we now know it—and Customs and Border Protection.

The program is of particular interest to me because I come from Washington State, a border state, where residents and businesses depend on open lanes at the border to get themselves or their goods to or from a Canadian destination on time.

We are committed to maintaining American strong trade partnerships while continuing to be innovative with programs at the borders to track the movement of people and goods.

The Department of Homeland Security will turn one year old in just about a month. In that time, it has developed and implemented ground breaking programs at the borders.

The One Face at the Border Initiative is one example that comes to my mind, and another, of course, is US-VISIT.

For the first time, we will be able to track foreign visitors. We will be able to cut down on identification document fraud. And we will make use of numerous databases to identify terrorist suspects before they enter this country.

I will have questions that relate to a number of areas.

For example, as we move toward the more complex exit portion of the system, I will be curious about your strategy, Director Hutchinson, for collaborating with airport operators such as those at Sea-Tac and others in my state but, also, all over the country.

I would like to know if the new US-VISIT database links up with and interfaces with others, for example, as Congressman Turner suggested, the terrorist watch list.

I know you agree we must not forget about commerce as it moves across our borders: What specific steps is the US-VISIT team taking to make sure that we don't stop traffic at our ports of entry and slow the movement of commerce?

And lastly, I realize that upgrading all United States passports will need to include biometric data and that that is a huge undertaking.

And I will be curious, Ms. Harty, to see how you see this new priority changing the daily operations of the United States embassies and consulates around the world.

I yield back.

Ms. GRANGER. Thank you.

The chairman now recognizes Representative Dicks for any statement he may have.

Mr. DICKS. I want to welcome our witnesses, but I am going to keep my time for questions.

Ms. GRANGER. Thank you.

The chair now recognizes Representative Sweeney for any statements he may have.

Mr. SWEENEY. I thank the vice chairwoman. I am going to submit for the record. I think it is important that we hear from our witnesses. I, as you know, Vice Chairwoman, I have to leave at 12 o'clock for a meeting, but I will come back.

I just want to make two brief statements and thank the witnesses for being here.

Yesterday I, too, watched the testimony of the 9/11 commission. Customs Inspector Jose Melendez-Perez testified. It is widely believed that that inspector kept the 20th hijacker out. However, unfortunately 19 others were let in.

I most particularly—this may be a rehash for some—really would like to hear the witnesses expound on how this system will have the desired effect of changing that process within the nation.

And I also want to congratulate the Secretary, because as I understand it, the department is some nine months ahead of schedule

on a number of directives. And it is at a time when there is waning confidence. Because of all the confusion it is nice. I think that is an important point that we stress so the American people understand we are moving in the right direction.

Ms. GRANGER. Thank you.

The chair now recognizes Representative Pascrell for any statements he may have.

Mr. PASCRELL. Thank you, Madam Chairlady.

I want to welcome good friend, Asa Hutchinson, who did a terrific job at the DEA and is doing a great job at Homeland Security.

Richard Reid was a British citizen—better known as the “shoe bomber.” And Zacarias Moussaoui—I believe I am pronouncing that correctly—was a French citizen. They arrived here legally, as far as know—as far as I have been able to ascertain—from exempt countries.

And I hope that we keep this in mind as we, Madam Chair, look through this very important effort to implement the Patriot Act. After all, this comes out of the Patriot Act.

And everything that comes out of the Patriot Act is under careful scrutiny by this Congress—and should be.

When our rights are reviewed, substantiated, supported I think, Mr. Hutchinson, you would agree that—and this is my opening statement, I realize that—that that is the main business of why we are in the Congress in the first place.

The attacks of September the 11, 2001, emphasize the urgent need to secure the visa-issuance process at our consulates and the inspections process at our ports of entry.

We all know the grim truth: All 19 hijackers entered United States ports easily.

This can simply never happen again.

Yet our country is still vulnerable. That is why we are discussing this. Our borders are still arguably too porous, too penetrable.

This, of course, is the uncomfortable reality of homeland security. While we need to act with absolutely urgency to improve our security levels, to do so in a truly effective manner often takes time.

We see this with the US-VISIT program. In concept, security our borders to protect our nation by identifying every person who enters the country is an ideal solution. I think the government, we all agree, has a right to know who is coming into this country and who is leaving. We have a right to know that as a very basic tenet of securing our neighborhoods and our streets.

In reality, this is an enormous undertaking. It will be costly. And many times it will be inconvenient. It will take time. And as we have already seen, it can be ineffective as well as being effective.

There are big holes in the program’s ability to work. Among other shortfalls, it does not compare the foreign nationals entering this country against a list that we have waited for a long time: the integrated terrorist watch list. You have heard that mentioned before I bring it up. That is critical.

It would seem to me that that should be the main priority that will help our law enforcement agencies, both national and local, now that we have opened up the process of communication, for the first time in a long time.



Individuals from 27 countries participating in the visa waiver are currently exempt from the US-VISIT. In an age where terrorism can strike any place, this to me is non-sensical.

Additionally, there are still serious questions about the general ability of biometric identifiers. We know that we have used the biographic identifiers in the past. We will continue to use that.

And I am interested to find out whether you are going to add fees to the biographic ones that already exist.

To say the least, while we need to secure our ports is critical, we have a long way to go before we effectively accomplish this goal.

This hearing will give us an exemplary opportunity to discuss where we are in this difficult process, where we are expected to be in the future, how we can help, because that is what we are all about. We are all on the same page.

I look forward to the remarks.

And I thank you, Madam Chair, for your courtesy.

Ms. GRANGER. Thank you.

The chair now recognizes Representative Lincoln Balart for any statement he may have.

Mr. DIAZ-BALART. Thank you, Madam Chairman.

And I join in welcoming our distinguished guests this morning.

It is important, I think, to put a spotlight on the issue of US-VISIT. It is a critical issue. Protecting our citizens from future terrorist attack is of the highest priority, not only for me as a representative from southern Florida, but as a member of this committee.

Our physical land borders and ports of entry must remain a critically important line of defense. And I believe the department, with the leadership of Undersecretary Hutchinson, is doing just that.

I look forward to monitoring the progress of US-VISIT to ensure that it is an effective tool in protecting the homeland and not just a hindrance for travel and a deterrence to tourism into the United States.

We must find the appropriate balance that allows the department to utilize the most effective tools to combat terrorism and allows commerce and transit to flow.

I would like to use this opportunity to raise another issue that is critical to South Florida: the international transit program, ITI.

The ITI program allows certain international air passengers to travel through the United States for transit purposes without first obtaining a visa. These are international passengers whose final destination is not the United States, but transfer at the airport on to another international flight.

The suspension of ITI, and in particular the suspension of the Miami International Airport's use of its secure transit lounges, could have an adverse impact on South Florida.

MIA receives more ITI passengers than any other U.S. airport. America Airlines alone carries approximately 700,000 ITI passengers annually into Miami International Airport.

Iberia Airlines of Spain carries approximately 250,000 ITI passengers annually.

Iberia Airlines, which uses MIA as hub for in-transit passengers, reacted by initiated very serious plans to move their hub to foreign airports. This airline alone generates approximately 2,000 jobs and

almost \$200 million in business revenue in South Florida's economy.

I commend Undersecretary Hutchinson for his attentive response by authorizing Miami International Airport's temporary use of its satellite transit lounge. This matter is critical for the well-being of South Florida's economy.

I look forward to working with Undersecretary Hutchinson to find a permanent solution that will protect our homeland and allow Miami International Airport to continue as a hub for flights to and from Latin America.

And again, I thank you, Madam Chairman.

Ms. GRANGER. Thank you very much.

Seeing no additional requests for time, we will proceed.

I would like to again thank our witnesses for being here.

I am sorry, you are not a member. You are not allowed to make an opening statement.

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON-LEE, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF TEXAS

The Department of Homeland Security launched US-VISIT at 115 airports and 14 seaports on January 5, 2004. The stated objective for US-VISIT is to enhance the nation's security while facilitating legitimate travel and trade through our borders.

The security measures employed by this program begin overseas at the U.S. consular offices that issue visas. Digital fingerscans are taken at these offices and used to determine whether the applicant is on a database of known or suspected criminals or terrorists. When a foreign visitor with a visa reaches our border and seeks admission into the United States, the fingerscans are used to verify that the person seeking admission is the same person who received the visa. And, another check is made for information about any involvement in terrorism or crime.

US-VISIT also will include departure confirmation systems, including an automated, self-service kiosk where visitors with visas will scan their travel documents and repeat the digital finger scanning process. The exit confirmation will be added to the visitor's travel records to demonstrate compliance and record the individual's status for future visits to the United States.

US-VISIT already has systems in place at airports and cruise ship terminals. In addition, Congress has mandated that an automated entry-exit program be implemented at the 50 busiest land ports of entry by December 31, 2004, and at all land ports of entry by December 31, 2005.

I am very much in favor of improving security at our borders. I support the efforts of the Homeland Security Department to implement new programs that will achieve that objective without impeding legitimate travel and trade through our borders. I am concerned, however, about whether the US-VISIT program ultimately will be successful.

The difficult challenges that this program faces are set forth in a report issued on September 2003, by the General Accounting Office (GAO). According to GAO, the scope of US-VISIT is large and complex; it must meet a demanding implementation schedule; and its potential cost is enormous. GAO observes in the report that many of the difficulties are inherent to the program and cannot easily be changed. However, GAO says, compounding these inherent problems are a number of others that are attributable to the program's current, inadequate state of governance and management. GAO questions whether US-VISIT will be able to measurably and appreciably achieve the Homeland Security Department's goal of enhancing national security while facilitating legitimate travel and trade.

Implementation of the program is not my only concern. Even if the Department of Homeland Security is successful in implementing US-VISIT, the program may not make our country more secure in any significant way. In 1998, a Senate Judiciary Committee Report (No. 105-197) found that, "implementing an automated entry-exit control system has absolutely nothing to do with countering drug trafficking, with halting the entry of terrorists into the United States, or with any other illegal activity at or near the borders. An automated entry-exit control system will at best provide information only on those who have overstayed their visas." I am not convinced that the Senate Judiciary Committee was wrong.

In its present form, US-VISIT only will apply to foreign visitors seeking admission on the basis of non-immigrant visas. It will not include aliens presenting lawful permanent resident documents. It will not include visitors from the 27 countries participating in the Visa Waiver Program. Most Canadians are not subject to US-VISIT. And, it will be years before the system is fully operational at all of the land borders. I do not believe that we can rely on this program to secure our borders. Thank you.

We will begin with Under Secretary for Border and Transportation Security at DHS, Asa Hutchinson.

We have received your written testimony. I ask you to briefly summarize in five minutes your statement.

I want to add: All the accolades that have been heaped your way are certainly deserved. I enjoyed coming into Congress and serving with you. And you have done an excellent job in all the ways you have served us.

**STATEMENT OF THE HONORABLE ASA HUTCHINSON, UNDER SECRETARY, BORDER AND TRANSPORTATION SECURITY DIRECTORATE, DEPARTMENT OF HOMELAND SECURITY**

Mr. HUTCHINSON. Thank you, Madam Chairman. It is good to be with you and the committee, Ranking Member Sanchez, Chairman Cox, Ranking Member of the Full Committee Turner—thank you for leadership and your partnership in the development of US-VISIT.

And it is a pleasure to be before you today to discuss this important program of the Department of Homeland Security.

US-VISIT represents the greatest advance in border technology in three decades. It is an historic achievement in which we, for the first time in history, can use a biometric ability to confirm the identity of those traveling to our country with visas.

The Department of Homeland Security deployed the first increment of US-VISIT on time, within budget, and has exceeded the mandate established by Congress.

We also met the challenge that was given by Secretary Ridge to include biometrics ahead of schedule.

This US-VISIT is in response to a congressional mandate—the leadership of Congress long before the attack on America of September 11 set the stage to develop a comprehensive entry-exit system.

And some people would like to measure the effectiveness of US-VISIT simply as a counterterrorism tool. But it is more than that. That is an important measuring stick. But also, as Congress well knew when it was first mandated, they would also build the integrity of an immigration system to know who overstays a visa, and that is also a measuring stick.

The deterrent value, the reduction of reliance upon fraudulent documents and the security of our country all are important goals of US-VISIT.

On January 5, US-VISIT entry procedures were operational at 115 airports and 14 seaports.

Our exit procedures, which fully comply with the requirements of law, we based upon passenger departure information that will allow the Department of Homeland Security to identify visa overstays.

In addition, we have begun pilot testing biometric exit procedure at one airport and one seaport.

As of today, more than 600,000 foreign visitors have been processed through US-VISIT entry procedures without increasing wait times. And more than 30 known criminals have been prevented from entering our country.

Let me take a few minutes to explain how US-VISIT works. Many of you have seen it at our airports already.

But currently, prior to US-VISIT, at a port of entry many of the same procedures were still applicable today as was previously. For example, a Customs and Border Protection inspector still reviews each visitor's travel documents, such as a visa and a passport, still asks the question about the visitor's stay in the United States.

What is new under US-VISIT is that the inspector now uses an inkless digital finger scanner to capture two finger scans of arriving, non-immigrant visitors holding visas. The visitor puts the left index finger and the right index finger on the scan, and it very quickly checks it against the operable databases. This check takes a matter of seconds.

The officer also takes a digital photograph of the visitor.

The biographic and biometric data are used to verify the identity of the visitor against the data captured by the State Department to ensure that the person entering the country is the same person that receives a visa.

Those biometrics are also compared against a watch list.

In addition, the digital picture was taken at the visa issuing post that is displayed to the CBP officer allows for a visual comparison.

These are important tools for Customs and Border Protection officers in their decision whether to admit a visitor to the country or not.

Since the US-VISIT entry procedures were implemented, we have significantly increased our capability to uncover criminals, to enhance security and to increase the integrity of our visa system.

A few examples, I think, would be appropriate. And these are all since January 5.

A citizen of Colombia convicted of statutory rape was intercepted on January 6 at the Miami International Airport after he failed to appear for sentencing in New York City and fled the country. He was arrested when he attempted to re-enter the country and turned over to New York for sentencing.

One day later, on January 7, a citizen of El Salvador was caught at JFK International Airport in New York City through the use of the US-VISIT biometrics. This individual had previously managed to leave and re-enter the U.S. 12 times over the past year until he was caught by the US-VISIT. He had been convicted of numerous driving offenses.

A citizen of El Salvador was intercept in New York on January 10th who had previously been convicted of a DUI hit-and-run death under another identity. This individual had been able to successfully leave and re-enter the United States despite outstanding warrants for his arrest, including a visit as recently as December 12. US-VISIT caught that individual.

On January 14th, officers in Miami encountered a Peruvian national attempting to enter the United States. He had previously

visited the United States in May of 2003, but his name did not appear on any biographic watch list. A biometric check under US-VISIT disclosed that he was in fact a convicted cocaine trafficker wanted for escaping from a federal prison in 1984. He had previously entered the United States under a fraudulent identity. He was caught under US-VISIT.

The same day in New York City, an officer intercepted a female citizen of Trinidad after she had attempted to enter the United States under a false identity. She admitted to officers that she had paid \$2,000 in Trinidad for a new passport and visa under an alternate identity—only caught through the biometrics.

One day later in Los Angeles, US-VISIT biometric checks resulted in the interception of a Chinese national wanted for probation violations following convictions for wire fraud, conspiracy, food stamp trafficking and use of false Social Security numbers. He had been attempting to enter the United States through use of a false identity. He was successfully caught by US-VISIT.

A citizen of Russia, on January 16th, attempted to enter New York City after he had attempted to enter the United States on an alternate identity. He was arrested for an assault case—captured by US-VISIT.

In Tampa, Florida, on January 17th, a citizen of Jamaica attempted to enter the United States but was caught by US-VISIT. Officers learned that previously he had been arrested and convicted in both federal and state courts on cocaine trafficking charges. He had been able to successfully evade detection and enter the United States over 40 times in the last year prior to the implementation of US-VISIT.

On January 17th, officers in Miami intercepted a citizen of Honduras after the biometric check disclosed that he had been previously deported from the United States following drug convictions.

January 18th, officers caught a Colombian national who had used five different identities and three different dates of birth as he attempted to enter the United States. Because of the US-VISIT biometrics, that individual was apprehended.

In Atlanta, on January 19th, we intercepted a citizen of Mexico after she attempted to enter the United States by using false documents. The biometric checks discovered that she had previously attempted to enter the United States in 1996 through the use of false documents.

The illustrations go on and on and on.

One instance they had used eight different aliases and three different dates of birth, and they were intercepted by US-VISIT.

And so it is important to note that these important security measures currently are capturing those that are attempting to enter our country under false identity and with previous convictions, many times under orders to be expelled from the country.

But it also serves as a deterrent as the word goes out that we have this capability and you cannot underestimate the importance of that deterrent.

It has not a negative impact on our wait times, which is a commitment that we engaged in from the very beginning as we developed this.

We have respected the privacy of our foreign visitors, and the privacy assessment was published prior to the implementation of US-VISIT.

Our partners have been very important in this endeavor. I am delighted to be with Maura Harty, assistant secretary at the Department of State. We could not have engaged and had the success of US-VISIT without their partnership. That is an ongoing effort, and I applaud the efforts of the Department of State in working in partnership with us.

I also appreciate the private sector. James May will be testifying later, who has done a terrific job with the ATA in working with us, giving us their advice on what are the proper solutions that we look to.

The airlines and airports have all been very valuable partners as we have developed this.

As we look to the future, I know that the job is not finished. And clearly, you can look at what has been accomplished and say there is much more to be done, and that is absolutely correct.

I am pleased to advise the committee that today we are submitting to Congress the 2004 spend plan, which gives Congress adequate time to review that in conjunction with the GAO.

We are pleased with the 2004 spend plan that will outline in a little bit more detail what we will be doing as we try to accomplish the 2004 deadlines of US-VISIT of implementing this at the 50 busiest land border ports of entry. And as has been indicated, that is a huge list and challenge for us.

Another part of the 2004 spend plan will be to complete the exit portion for our airports.

We currently have, let me emphasize, the biographic data that will allow us to determine visa overstays. We want to be able to enhance this with the biometric feature. We are testing this with various pilots, one of them being at Baltimore International Airport. We will test it in other arenas to determine what is the best exit solution with a biometric that we can work to implement as we continue to work with our partners to see what is the best solution.

We have done this with the 2003 budget of \$367 million to achieve this successful deployment. In 2004 we have \$330 million that has been allocated and appropriated by Congress for this purpose.

The biggest challenges is to do this in the 50 busiest land ports by the deadline of December of 2004.

I wanted to recognize the tremendous work of the program director, Jim Williams, who is behind me, as well as his deputy director, Bob Mockney and the entire Homeland Security team that has worked together to meet the current goal and will be working with the partners on the border to implement the 50 busiest land borders requirement in a way that does not compromise the commerce that flows through the border each and every day.

We are committed to building a program that enhances the integrity of our immigration system by catching the few and expediting the many. And we recognize that the U.S. is leading the way internationally in this effort, but we will continue to work with our international partners.

[The statement of Mr. Hutchinson follows:]

PREPARED STATEMENT OF THE HONORABLE ASA HUTCHINSON

Chairman Camp, Ranking Member Sanchez and other distinguished Members, it is a pleasure to appear before you today to discuss the Department of Homeland Security's US-VISIT program and how this fits in with our commitment to protect the homeland.

US-VISIT represents yet another major milestone in enhancing our nation's security and our efforts to reform our borders. It is a major step towards bringing integrity back to our immigration and border enforcement systems.

US-VISIT procedures are clear, simple, and fast for foreign nationals. Upon arrival at the air or seaport, visitors will see signage that clearly explains the US-VISIT procedures. This signage, as well as explanatory boarding cards that many airlines are distributing to their passengers, is translated into multiple languages and features the campaign iconography to ensure people understand what to do when they get to the primary inspection booth.

For foreign visitors traveling with visas, the additional US-VISIT steps are simple. First, the officer directs the visitor to place his or her left index finger on the small red window of the digital fingerscanning device. Next, the visitor places his or her right index finger on the scanning device. Finally, the officer takes a digital photograph of the visitor. These procedures add, on average, 15 seconds to the overall inspection process. There is no ink involved in the digital fingerscanning process. The officer will then ask the visitor standard, routine questions about his or her visit. The biometric data and biographic information are compared to a series of watchlists and databases, and within seconds the officer has the information he or she needs to admit the visitor into the country or refer the visitor to secondary inspection for further review.

The Department of Homeland Security (DHS) deployed US-VISIT on time, on budget, and has met the mandates established by Congress as well as the challenge by the Secretary of Homeland Security to include biometrics (fingerprints) ahead of schedule. Senior U.S. Customs and Border Protection management has hailed it as the biggest improvement to border inspection in more than three decades. By January 5, 2004, US-VISIT entry procedures were operational at 115 airports (covering 99 percent of all foreign visitors entering the country by air) and 14 seaports, and we began pilot testing biometric exit procedures at one airport and one seaport. As of January 23rd, more than 600,000 foreign visitors have been processed under the new US-VISIT entry procedures.

Our border management system impacts the security of our citizens and our visitors, affects billions of dollars in trade and travel, and helps define relations with our international partners. There is a need to improve this system and bring it into the 21st century with a new integrated system of technological processes that will keep our country's economic and national security strong. This 21st century technology will provide an important step toward achieving the President's goal of secure U.S. borders.

In just a few short weeks the first release of US-VISIT has improved the security of our citizens and visitors. Our Customs and Border Protection Officers are saying that the new tools we have put in place truly help them do their jobs more effectively. They say it's a major advancement in border control. US-VISIT integrates multiple sources of information spanning multiple agencies and departments in order to identify visitors who may pose a threat to the security of this country. A primary source of information supporting the identification of foreign-born criminal violators is the FBI's Integrated Automated Fingerprint Identification System. (IAFIS) To facilitate the inspectors' job at the border, the entrants' screening results are processed and displayed on one screen in less than 15 seconds. Included in this processing time is the collection of the entrants' fingerprints and photograph and matching certain information with that collected by the Department of State at the time of visa issuance. We intercepted a fugitive who had escaped from prison over 20 years ago. We caught and extradited a felon wanted for manslaughter in San Diego. We finally stopped one drug dealer who had entered the U.S. more than 60 times in the past four years using different names and dates of birth. We continue to identify criminals every day at our borders, and on January 19, we supplied crucial biometric information to our partners at the Department of State and prevented an individual from ever obtaining a visa.

The increase in security has not had negative effect on our wait times or our commitment to service. But you don't have to take my word for it. Albert Park, a Korean visiting his sister and arriving at John F. Kennedy International Airport, told

the New York Sun (January 6th edition): “I expected a lot more delays, but it was all pretty smooth,” and said, “It definitely makes me feel safer.”

“We at the airport believe that this is a true enhancement,” said Bruce Drum, associate director of the Miami-Dade County Aviation Department.” (The Associated Press, January 5th)

And, there was this excerpt from the Washington Post (January 6th): Some travelers who were fingerprinted and photographed at airports across the country yesterday said the security procedures were swift, and most said they were resigned to the new rules. “I don’t really mind,” said D.C. resident Salome Nnanga, a native of Ethiopia. “I think it’s a very, very good idea to protect the country.”

We want to ensure that we continue to be a welcoming nation, a nation that invites visitors to study, do business, and relax in our country. We also owe it to our citizens and visitors to deny entry to persons wishing to do harm, or who are inadmissible to the U.S. . Few would dispute that these steps are necessary.

As we evaluate the first month of the program, it seems clear that visitors appreciate the effort we are making to deliver security while simultaneously facilitating the process for law-abiding, legitimate travelers. We must continue to respect our visitors’ privacy, treat them fairly, and enable them to pass through inspection quickly so they can enjoy their visit in our country. As people attempt to enter our country, we must know who they are and whether they have committed a crime that would make them inadmissible to the U.S. Moreover, as they leave, we must know that they have not overstayed the duration of their visa. This ability to verify identity means we can have security and control without impeding legitimate travelers, and we can also help protect our welcomed visitors by drastically reducing the possibility of identity theft.

But we are not finished. This is a complicated job that will take time to complete. In fact, US-VISIT is designed to be rolled out in increments to ensure that the foundation is strong and the building blocks are effective. With the deployment of the entry components at air and sea ports, we have made a strong beginning, and going into 2004, we are on track to meet the December 31, 2004 deadline to integrate entry-exit databases at the 50 busiest land border ports of entry and to deploy biometric capabilities to verify certain visa holders. We are seeing that we can accomplish what we set out to do: keep out criminals and terrorists, enhance the integrity of our immigration system, facilitate legitimate travel and trade and help protect the privacy and identity of our visitors.

#### ***A Brief Overview***

The US-VISIT program is a high-priority initiative of DHS. Working with the Department of State, the Department of Justice, and other federal agencies, we have made great strides in improving overall border management through the collection of pre-arrival, arrival, and departure information on foreign visitors and immigrants who apply for visas and travel through our nation’s air and seaports. The program will ultimately record the entry and exit of certain visa holders at our land ports of entry as well. The information will be used to report on the numbers of aliens who have overstayed their periods of admission. Ultimately these reports will enable DHS to seek aliens who have not departed.

By recording more complete arrival and departure information, the US-VISIT program will meet various Congressional mandates for an integrated, interoperable, and automated entry exit system for foreign visitors. More than that, it will also enhance the security and safety of citizens, residents, and visitors by verifying foreign national travelers’ identities through the comparison of biometric identifiers, by authenticating their travel documents, and by checking their data against appropriate law enforcement and intelligence systems.

The goals of US-VISIT are to:

Enhance the security of our citizens and visitors.

US-VISIT is a history-making achievement that begins overseas with our partners at the Department of State’s visa-issuing posts, and continues upon entry at Customs and Border Protection inspection booths. Already US-VISIT has prevented 30 people who matched criminal databases from entering the U.S.—one even before the visa was issued overseas. And, just by implementing US-VISIT procedures, we have sent a warning to those who believe they can skirt the system, to not even try.

#### ***Facilitate legitimate travel and trade.***

The Department believes that, over time, US-VISIT will actually speed up the processing times. Reports indicate that capturing biometrics (two fingerscans and a digital photo) takes less than 15 seconds. The Automated Biometric Identification System (IDENT) system takes only seconds to capture the person’s information. The CBP Officers often can ask fewer questions once the identity of the visitor has been



captured. Fewer people are being sent for secondary inspection, and the overall time to 'clear' a plane has not been significantly impacted. We have also developed responsible mitigation strategies if circumstances dictate that wait times have become unacceptable at a port of entry. All of these improvements help to keep trade booming and contribute to the economy of our nation.

**Ensure the integrity of the immigration system.**

Inherent in the US-VISIT program is its ability to identify fraudulent documents. This tool aids in bolstering the integrity of the immigration system. As we test various exit components, we further strengthen the immigration system by identifying people who do not comply with the terms of their admission.

US-VISIT also allows DHS to identify those visitors who have overstayed their allotted time in the U.S. and will be available to determine the future admissibility of such visitors. Through the use of airline and ship manifests, US-VISIT already tracks who has arrived to, and departed from, the U.S. Those departures are matched with US-VISIT databases against the recorded entries. Information received from other DHS databases, such as the Student and Exchange Visitor Information System, or SEVIS, will be used to confirm a visitor's compliance with U.S. immigration policy. Individuals for whom an entry exists, but for whom there is no record of departure, are referred to U.S. Immigration and Customs Enforcement for further investigation. If these overstays are located, they may be placed in removal proceedings in accordance with applicable immigration laws.

By providing vital data and assisting in the enforcement of immigration laws, US-VISIT strengthens the overall immigration process and ensures the integrity of our immigration system.

**Safeguard the personal privacy of our visitors.**

Biometric identifiers make it harder to steal someone's identity even if their travel documents are lost or stolen. This is a significant benefit US-VISIT delivers for the millions of legitimate travelers we welcome each year. In addition, we must continue to respect our visitors' privacy. We have a Privacy Impact Assessment (PIA) being reviewed by external audiences and DHS has the first statutorily created Chief Privacy Officer, Nuala O'Connor Kelly. Ms. O'Connor Kelly along with the US-VISIT privacy officer has worked closely with privacy experts at the Office of Management and Budget, and with independent privacy consultants to prepare a PIA that addresses the beginning increments of this program.

***The Identity Verification Continuum***

The Department of Homeland Security and Department of State together have created an entire continuum of identity verification measures that begins overseas, when a traveler applies for a visa, and continues upon entry and exit from this country. Today, more than 50 visa-issuing posts have begun to capture fingerprints and photographs of foreign nationals when they apply for visas, regardless of their country of origin. This process will be in place at all 211 visa-issuing posts worldwide by October 2004.

US-VISIT supports pre-entry processes by using information from the Advance Passenger Information system (biographic, biometric, and previous travel and visa information) to match information to watchlists. This pre-entry processing establishes a single identity for each foreign national that will be used in all interactions with US-VISIT.

***Program Implementation***

The program is being implemented in increments. The first increment was implemented on December 31 of last year. The other increments will be deployed over the coming years with the ultimate goal of having a robust system that can deliver all of the US-VISIT goals. The steps to this program include:

**Increment 1—12/31/03:**

- Collect and verify biometrics for foreign nationals arriving with nonimmigrant visas at air and seaports of entry
- Check admissibility against watchlists using biographic and biometric data
- Establish exit pilots

**Increment 2A—10/26/04:**

- Issue U.S. biometric travel documents following International Civil Aviation Organization (ICAO) standards (all countries)
- Visa Waiver Program applicants must have machine readable passports with biometric indicators in compliance with ICAO standards
- Deploy capability to read biometric travel documents at air and sea POEs

**Increment 2B—12/31/04:**

- Extend Increment 1 capability to 50 highest volume land POEs

**Increment 3—12/31/05:**

- Extend Increment 2B to remaining land POEs

**Increment 4:**

- Launch initial roll-out of US-VISIT envisioned system

**US-VISIT's Budget**

We deployed US-VISIT on budget. During Fiscal Year 2003 we used appropriated funds of \$367 million to achieve successful deployment to 115 airports and 14 seaports. Specifically we have:

- Implemented/interfaced systems to reduce redundancy and make more information available
- Upgraded our infrastructure to support added biometrics
- Deployed the US-VISIT system to 115 airports and 14 seaports on January 5, 2004
- Initiated the exit pilot at one airport and one seaport
- Established the US-VISIT program office

During fiscal year 2004, we have a total of \$330 million plus an additional \$10 million in no-year funds that we intend to use to continue meeting our goals. Currently, our fiscal year 2004 Expenditure Plan is in review; when these funds are released, we plan to:

- Analyze, field test, and initiate deployment of alternative approaches for verifying identity on exit at air and sea ports of entry
- Implement US-VISIT Increment 1 capabilities at the 50 busiest land border ports of entry by December 2004
- Install biometric readers at all air, sea, and land ports of entry
- Continue building our program management capabilities

In addition, we plan to award a contract to a prime contractor for further development of our end vision. This long-term vision will cover foreign nationals and their interactions with U.S. officials before they enter, when they enter, and when they exit. This comprehensive approach to border management will lead to the creation of a virtual border and will set the course for improved processes for management of data on foreign visitors.

We have also requested that \$25 million be released in the interim, while the current year expenditure plan is in review. This will allow us to continue our efforts without interruption and avoid impact to the program that delays in schedule may cause.

**Entry Procedures**

US-VISIT procedures are already in place at more than 50 visa-issuing posts, and all 211 visa-issuing posts will be deploying US-VISIT technology by October, 2004. By capturing biometrics overseas, before visas are issued, we are working together to strengthen national security.

Once at the port of entry, visitors will find that many of the procedures remain unchanged and are familiar to international travelers. For example, a U.S. Customs and Border Protection Officer still reviews each visitor's travel documents, such as a visa and passport. The officer still asks questions about the visitor's stay in the U.S.

What's new under US-VISIT is that the U.S. Customs and Border Protection Officer now uses the inkless, digital "fingerscanner" to capture two "fingerscans" of arriving nonimmigrant visitors holding visas. The visitor puts the left index finger and then the right index finger on the scanner. The officer also takes a digital photograph of the visitor.

The biographic and biometric data are used to check the identity of the visitor against the data captured by the State Department to ensure that the person entering the country is the same person who received the visa. Biometrics are also compared against watchlists. At that point, the U.S. Customs and Border Protection Officer will either admit the visitor or conduct additional inquiries based on the verification results. These procedures reduce fraud, identity theft, and the risk that terrorists and criminals will enter the U.S. undetected.

**A True Partnership**

The Department is not doing this alone. We are collaborating with other government agencies, most notably the Department of State, to implement US-VISIT and inform the traveling public. We are working closely with the air and sea travel industry regarding the requirements of the US-VISIT program, as well as speaking with constituencies along the land borders. We see our relationship with these groups as a partnership.

We are also partnering with private industry to develop the best technological solutions. In accordance with our published schedule, a Request For Proposals (RFP) was issued in November 2003. The RFP incorporates an acquisition strategy to en-

sure that the latest available technologies will be incorporated into US-VISIT. The contract for this technology is expected to be awarded in May 2004.

An important part of the program is public education. Travelers are getting educated about the program before they arrive at the port of entry. We are engaged in a worldwide campaign to inform them. This campaign includes public service announcements, signage at ports of entry, explanatory cards on airplanes and cruise ships, news media coverage, and on-board explanatory videos.

#### **Statutory Mandates**

The principal law that mandates the creation of an automated entry exit system that integrates electronic alien arrival and departure information is the *Immigration and Naturalization Service Data Management Improvement Act of 2000 (DMIA)*, Pub. Law No. 106-215 (2000), 114 Stat. 339, codified as amended at 8 U.S.C. section 1365a.

But there are many other laws that also impact this program. In order to handle all of the legal requirements and be able to best monitor the progress, meet the requirements, and measure the success, Secretary Ridge established US-VISIT. (See Appendix I for details of these statutory mandates.)

We have prepared a Privacy Impact Assessment (PIA), which is being reviewed by external audiences including several privacy advocacy groups. This process is being spearheaded by DHS's Chief Privacy Officer, Ms. O'Connor Kelly, the first statutorily mandated privacy officer, to ensure that US-VISIT is in compliance with the appropriate privacy rules and regulations. The PIA has been developed and published in the *Federal Register*, and DHS is currently considering all comments received.

The Chief Privacy Officer (Ms. Nuala O'Connor Kelly) and the US-VISIT Privacy Officer (Steve Yonkers) have met with numerous advocacy, privacy and immigration groups to solicit input and hear concerns, which have been taken into account in the development of the program.

The US-VISIT PIA was hailed by many in the privacy community as an excellent model of transparency, including detailed information about the program, the technology and the privacy protections.

A copy of the PIA is attached as Appendix II.

#### **Success Stories on Violators and Deployment of US-VISIT**

Since US-VISIT entry procedures were implemented, it has resulted in the interception of dozens of individuals who matched various criminal databases. These included rapists, drug traffickers, credit card and visa fraud criminals, and a convicted armed robber.

Here are details of a few examples.

##### *(1) Interception of Drug Trafficker who Escaped from Prison*

On January 14, 2004, at Miami International Airport, a man from Peru was traveling to the U.S. When he arrived at the CBP Officer's booth for admittance, he was enrolled in US-VISIT. His fingerprints matched the ones already in a federal criminal database. This man was wanted by the U.S. Marshals for escaping from Latuna Federal Correction Facility where he had been serving a sentence for a conviction of dealing cocaine. After his escape, an arrest warrant was issued. In May of 2003 he re-entered the U.S. without incident. Now, with the help of US-VISIT biometric processes, this man was caught and extradited by U.S. Marshals for the warrant. US-VISIT prevented a drug trafficker from roaming the streets of Miami.

##### *(2) Closing a Deportation Loop Hole*

On January 18, 2004, a man who has had four aliases tried to enter the U.S., even with a "failure to appear" warrant for him. DHS/ICE issued the warrant on August 8, 2003, and since then this man had entered the U.S. at least five times. Now, with the ability to match fingerscans with those in a criminal database, this man's luck ran out. He was extradited from the U.S. and put on the next flight back to Columbia.

##### *(3) Passport Fraud Uncovered*

On January 14, 2004, a British West Indies Airways flight arrived at JFK International Airport in New York carrying a woman from Trinidad. Because US-VISIT begins at the visa-issuing post, a photo of the visitor was on file and accessible by the Customs and Border Protection Officer, who determined that she had used a false name. In reality, the traveler was a woman who had been arrested in April 2000 in New Orleans and convicted of passport fraud. The woman was placed on five years' probation and ordered not to enter the U.S. without the attorney general's written permission. The woman, whose husband

lives in the U.S., had obtained a passport and U.S. visa by fraud in Trinidad for \$2,000. She was removed from the U.S.

#### **A CBP Trainee Rises to the Occasion**

U.S. Customs and Border Protection Officer Trainee Rafal Izycki was working at primary inspection at Chicago O'Hare International Airport. An Albanian national seeking admission into the U.S. appeared before him and presented an Albanian passport. When Inspector Izycki compared the State Department photo image provided by US-VISIT against the photographs on the passport and visa, he realized that the person in front of him was not the person who had obtained the visa. He immediately referred the Albanian national for a secondary inspection where it was determined that the passport had been photo-substituted and the non-immigrant visa had been altered. The capability to access the State Department photographs of visa applicants provides a powerful tool for inspectors working to protect the U.S.

#### **Land Issues**

US-VISIT Increment 1 capabilities will be in place at the 50 busiest land ports of entry (POEs) by December 31, 2004, with processes in place at the remaining land borders by December 31, 2005. Land borders present a unique challenge in and of themselves, and each of the 165 land ports of entry is different and challenging. We do know that an inspection conducted at an air or sea entry point and one conducted at a land border will be different.

We are currently developing the best solution for a technology to be used at land borders to leverage biographic and biometric data.

#### **US-VISIT Program Office Update**

Secretary Ridge approved the creation of a US-VISIT program office, and positions have been approved to fill the organization and manage the program. The US-VISIT program team consists of representatives from the various components of DHS responsible for border security, including the U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, and the Transportation Security Administration. U.S. Citizenship and Immigration Services is also represented. Other DHS components that assist the US-VISIT team include the Directorate for Management and the Science and Technology Division. In addition, outside DHS, the team consists of representatives from the Departments of Transportation, State, Commerce, Justice, and General Services Administration.

#### **Conclusion**

US-VISIT is critical to our national security as well as our economic security, and its introduction has been successful. But US-VISIT can not be left unfinished. We must build upon the initial framework and solid foundation to ensure that we continue to meet our goals to enhance the security of our citizens and visitors while facilitating travel for the millions of visitors we welcome each year. We are committed to building a system that enhances the integrity of our immigration system by catching the few and expediting the many, and we recognize that the U.S. is leading the way in helping other countries around the world keep their borders secure and their doors open.

### **APPENDIX I**

#### **STATUTORY MANDATES:**

The principal law that mandates the creation of an automated entry exit system that integrates electronic alien arrival and departure information is the *Immigration and Naturalization Service Data Management Improvement Act of 2000 (DMIA)*, Pub. Law No. 10.6–215 (2000), 114 Stat. 339, codified as amended at 8 U.S.C. section 1365a. *DMIA* amended previous legislative requirements for an entry exit system that would record the arrival and departure of every alien who crosses the U.S. borders. See section 110. of the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*. Div. C, Pub. Law No.104–208 (1996), 110. Stat. 3009–558, codified in scattered sections of 8 U.S.C. (later amended by *DMIA*). *DMIA* requires that the entry exit system consist of the integration of all authorized or required alien arrival and departure data that is maintained in electronic format in Department of Justice (DOJ) (now DHS) or Department of State (DOS) databases. 8 U.S.C. section 1365a. This integrated entry exit system must be implemented at all air and sea ports of entry by December 31, 2003 using available air and sea alien arrival and departure data as described in the statute. *DMIA* also states that the system must be implemented at the 50. most highly trafficked land border ports of entry by December 31, 2004, and at all ports of entry by December 31, 2005, with all available electronic alien arrival and departure information. *DMIA* also requires

DHS to use the entry exit system to match the available arrival and departure data on aliens and to prepare and submit to Congress various reports on the numbers of aliens who have overstayed their periods of admission and on implementation of the system. 8 U.S.C. section 1365a(e). *DMIA* authorizes the Secretary of Homeland Security, in his discretion, to permit other Federal, State, and local law enforcement officials to have access to the entry exit system for law enforcement purposes. 8 U.S.C. section 1365a(f).

In addition, section 217(h) of the *Visa Waiver Permanent Program Act* of 2000. (VWPPA), Pub. Law No. 106–396 (2000), 114 Stat. 1637, codified as amended at 8 U.S.C. section 1187(h), requires the creation of a system that contains a record of the arrival and departure of every alien admitted under the Visa Waiver Program (VWP) who arrives and departs by air or sea. The requirements of *DMIA* effectively result in the integration of this VWP arrival/departure information into the primary entry exit system component of the US-VISIT program.

In late 2001 and 2002, Congress passed two additional laws affecting the development of the entry exit system, partly in response to the events of September 11, 2001. Section 40.3(c) of the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act)*. Pub. Law No. 107–56 (2001), 115 Stat. 353, codified as amended at 8 U.S.C. section 1379, required the Attorney General and the Secretary of State jointly, through the National Institute of Standards and Technology (NIST), and in consultation with the Secretary of Treasury and other appropriate Federal law enforcement and intelligence agencies, and in consultation with Congress, to develop and certify a technology standard, including appropriate biometric identifier standards, that can be used to verify the identity of visa applicants and persons seeking to enter the United States pursuant to a visa and to do background checks on such aliens. In developing the entry exit system required by *DMIA*, section 414(b) of the *USA PATRIOT Act* directed the Attorney General and the Secretary of State to “particularly focus on the utilization of biometric technology; and the development of tamper-resistant documents readable at ports of entry.” 8 U.S.C. section 1365a note.

The legislative requirements for biometric identifiers to be utilized in the context of the entry exit system were significantly strengthened with passage of the *Enhanced Border Security and Visa Entry Reform Act of 2002 “Border Security Act” or EBSVERA*. Pub. Law No. 107–173 (2002), 116 Stat. 553, codified in scattered sections of 8 U.S.C. Section 302(a)(1) of the *Border Security Act* states that the entry exit system must use the technology and biometric standards required to be certified by section 403(c) of the *USA PATRIOT Act*. Section 303(b)(1) requires that “[n]o later than October 26, 2004,” only machine-readable, tamper resistant visas and other travel and entry documents that use biometric identifiers may be issued to aliens by DHS and DOS. 8 U.S.C. section 1732(b)(1). This section, however, does not invalidate unexpired travel documents that have been issued by the U.S. government that do not use biometrics. Section 303(b)(1) further states that the Secretaries of Homeland Security and State must jointly establish document authentication and biometric identifier standards for alien travel documents from among those recognized by domestic and international standards organizations. *Id.*

Section 303(b)(2) requires that “[n]o later than October 26, 2004,” all ports of entry must have equipment and software installed “to allow biometric comparison and authentication of all United States visas and other travel and entry documents issued to aliens, and passports” that are required to be issued by VWP countries. 8 U.S.C. section 1732(b)(2). The current statutory language also requires that by that same date, VWP countries must have a program in place to issue tamper-resistant, machine-readable, biometric passports that comply with biometric and document identifying standards established by the International Civil Aviation Organization (ICAO). 8 U.S.C. section 1732(c)(1). The statute also states that on or after October 26, 2004, any alien applying for admission under the VWP must present a passport that is machine readable, tamper-resistant and that uses ICAO-compliant biometric identifiers, unless the unexpired passport was issued prior to that date. 8 U.S.C. section 1732(c)(2). The entry exit system must include a database that contains alien arrival and departure data from the machine readable visas, passports, and other travel and entry documents. 8 U.S.C. section 1731(a)(2). In developing the entry exit system, the Secretaries of Homeland Security and State must also make interoperable all security databases relevant to making determinations of alien admissibility. 8 U.S.C. section 1731(a)(3).

In addition, the entry exit system component must share information with other systems required by the *Border Security Act*. Section 202 of the *Border Security Act* addresses requirements for an interoperable law enforcement and intelligence data system and requires the integration of all databases and data systems that process or contain information on aliens.

The US-VISIT program requirements that foreign nationals provide biometric identifiers when they seek admission to the United States are further supported by the Department's broad authority to inspect aliens contained in section 235 of the INA, 8 U.S.C. section 1225. Pursuant to section 215(a) of the INA, the President also has the authority to regulate the departure of aliens, as well as their arrival. President Bush has issued Executive Order titled Assignment of Functions Relating to Arrivals In and Departures From the United States delegating his authority to promulgate regulations governing the departure of aliens from the United States. In accordance with section 215 and with this new Executive Order, the Secretary of Homeland Security, with the concurrence of the Secretary of State, has the authority to issue this rule which requires certain aliens to provide requested biometric identifiers and other relevant identifying information as they depart the United States. For nonimmigrant aliens, the Department may also make compliance with the departure procedures a condition of their admission and maintenance of status while in the country under INA, section 214.

Many other provisions within the INA also support the implementation of the US-VISIT program, such as the grounds of inadmissibility in section 212, the grounds of removability in section 237, the requirements for the VWP program in section 217, the electronic passenger manifest requirements in section 231, and the authority for alternative inspection services in sections 286(q) and 235 of the INA and section 404 of the *Border Security Act*. These are but a few of the most significant provisions that support US-VISIT from among numerous other immigration and customs statutes.

## US-VISIT PROGRAM, INCREMENT 1

### PRIVACY IMPACT ASSESSMENT

#### EXECUTIVE SUMMARY

DECEMBER 18, 2003

#### Overview

US-VISIT, the United States Visitor and Immigrant Status Indicator Technology, is a legislatively-mandated DHS program that is designed to:

- Enhance the security of American citizens, permanent residents, and visitors
- Expedite legitimate travel and trade
- Ensure the integrity of the immigration system
- Safeguard the personal privacy of visitors

When fully implemented, US-VISIT will provide a dynamic, interoperable system involving numerous stakeholders across the government. Increment 1, as the name suggests, is the first step in the implementation process. Increment 1 proposes to integrate and modify the capabilities of several information systems in order to accomplish the mission of US-VISIT.

This Privacy Impact Assessment (PIA) focuses on Increment 1 of this entry exit system.

#### What Information is Collected

The US-VISIT program will collect and retain biographic, travel, and biometric information (i.e., photograph and fingerprints) pertaining to visitors.

Individuals covered by Increment 1 ("covered individuals") are nonimmigrant visa holders traveling through air and sea ports.<sup>1</sup> The DHS regulations and related *Federal Register* notice for US-VISIT Increment 1 will fully detail coverage of the program. Information is in the Committee file.

#### Why the Information is Being Collected and Intended Use of the Information

In accordance with Congressional mandates for an entry exit system, information is collected from and used to verify the identity of covered individuals who enter or leave the United States. This enables U.S. authorities to enhance the security of the United States by more effectively identifying covered individuals who are:

- Known to pose a threat or are suspected of posing a threat to the security of the United States;

<sup>1</sup>Nonimmigrant visa entrants comprise a small percentage of the 330 million non-citizens admitted annually through ports of entry. Establishing US-VISIT incrementally with this population will allow DHS to test implementation of the system and to make revisions as needed for future increments.

- Known to have violated the terms of their admission to the United States;  
or
- Wanted for commission of a criminal act in the United States or elsewhere.

#### **Information Access and Sharing**

Information collected and retained by US-VISIT will be accessed by employees of DHS components—Customs and Border Protection, Immigration and Customs Enforcement, Citizenship and Immigration Services, and the Transportation Security Administration—and by consular officers of the Department of State. Strict security controls will be put in place to ensure that only those personnel with a need for the information in the performance of their official duties will be able to access information in the system.

If necessary, the information that is collected will be shared with other law enforcement agencies at the federal, state, local, foreign, or tribal level, who are lawfully engaged in collecting law enforcement intelligence information and who need access to the information in order to carry out their law enforcement duties.

#### **Consent Mechanisms**

The admission into the United States of an individual subject to US-VISIT requirements will be contingent upon submission of the information required by US-VISIT, including biometric identifiers. A covered individual who declines to provide biometrics is inadmissible to the United States, unless a discretionary waiver is granted under section 212(d)(3) of the Immigration and Nationality Act. Such an individual may withdraw his or her application for admission, or be subject to removal proceedings.

#### **Security**

Information accessible to US-VISIT will be protected through multi-layer security mechanisms that are physical, technical, administrative and environmental and that are in compliance with the DHS IT Security Program Handbook and DHS Baseline Security Requirements for Automated Information Systems. These security mechanisms provide access control to sensitive data, physical access control to DHS facilities, confidentiality of communications, authentication of sending parties, and careful screening to ensure that all personnel with access to data are screened through background investigations commensurate with the level of access required to perform their duties.

#### **System of Records**

A system of records notice (SORN)—normally required under the Privacy Act—is not necessary for US-VISIT because no new system is being developed for Increment 1. However, the ADIS and IDENT SORNs have been revised to reflect US-VISIT usage.

Although US-VISIT derives its capability from the integration and modification of existing systems, it nevertheless represents a new business process that involves new uses of existing data and the collection of new data items. As a result, there is a potential for new privacy risks, which are addressed in the PIA.

#### **Privacy Controls**

US-VISIT collects, integrates, and shares personal information of covered individuals. Covered individuals must consent to the collection, use, and disclosure of this personal information if they wish to enter or leave the U.S.

To address the privacy concerns associated with the program, US-VISIT will implement comprehensive privacy controls, which will be modified and updated as the system is revised and expanded. These controls consist of:

- Public education through transparency of the program, including development and publication of a Privacy Policy that will be disseminated prior to the time information is collected from potential visitors;<sup>2</sup>
- Establishment of privacy sensitivity awareness programs for US-VISIT operators;<sup>3</sup>
- Establishment of a Privacy Officer for US-VISIT and implementation of an accountability program for those responsible for compliance with the US-VISIT Privacy Policy;
- Periodic strategic reviews of US-VISIT data to ascertain that the collection is limited to that which is necessary for US-VISIT stated purposes;
- Usage agreements between US-VISIT and other agencies authorized to have access to US-VISIT data;

<sup>2</sup>A copy of the Privacy Policy is appended to the full report.

<sup>3</sup>The legacy systems on which Increment 1 is built include privacy sensitivity training requirements. This training will be made mandatory for US-VISIT operators.

- To the extent permitted by law, regulations, or policy, establishment of opportunity for covered individuals to have access to their information and/or allow them to challenge its completeness;
- Maintenance of security safeguards (physical, electronic and procedural) consistent with federal law and policy to limit access to personal information only to those with appropriate rights, and to protect information from unauthorized disclosure, modification, misuse, and disposal, whether intentional or unintentional; and
- Establishment of administrative controls to prevent improper actions due to data inconsistencies from multiple information sources.

**Contact Point and Reviewing Official**

Contact Point: Steve Yonkers, US-VISIT Privacy Officer, (202) 298-5200

Reviewing Official: Nuala O'Connor Kelly, Chief Privacy Officer, DHS,  
(202) 772-9848

**Comments**

We welcome your comments on this privacy impact assessment. Please write to: Privacy Office, Attn.: US-VISIT PIA, U.S. Department Of Homeland Security, Washington, DC 20528, or email *privacy@dhs.gov*. Please include US-VISIT PIA in the subject line of the email.





Homeland  
Security

**US-VISIT**

## **FY02 Crossing Volume Statistics (U.S. and Non-U.S. Citizens)**

<b>Traveler Population</b>	<b>Air</b>	<b>Sea</b>	<b>Land</b>	<b>Totals</b>
U.S. Citizen	33.0 M	7.4 M	120.7 M	161.1 M
Legal Permanent Resident (LPR)	4.4 M	0.2 M	75.0 M	79.6 M
Visa Exempt			52.2 M	52.2 M
Visa Waiver	13.0 M	0.3 M	1.8 M	15.1 M
Regular Visa	19.3 M	4.5 M	4.5 M	28.3 M
Mexican Border Crossing Card			104.1 M	104.1 M
<b>Totals</b>	<b>67.7 M</b>	<b>12.4 M</b>	<b>358.3 M</b>	<b>440.4 M</b>

Ms. GRANGER. Thank you, Mr. Secretary, I appreciate that very much. We will be back with some questions in just awhile.

The chair now recognizes Assistant Secretary Maura Harty for her testimony.

**STATEMENT OF THE HONORABLE MAURA HARTY, ASSISTANT SECRETARY, BUREAU OF CONSULAR AFFAIRS, DEPARTMENT OF STATE**

Ms. HARTY. Thank you, Madam Chairman, members of the committee. Thank you very much for inviting me here to testify before you today on the role of the Bureau of Consular Affairs in implementing biometrics programs in U.S. visas and passports.

The inclusion of biometrics in international travel documents is an important step in enhancing the security of our nation's borders.

The Department of State's visa work abroad constitutes a vital element in providing for our national security. We have no higher responsibility than the protection of our citizens and safeguarding our country's borders through the visa process.

The consular officers of the foreign service who adjudicate visas at our embassies and consulates abroad truly are the first line of defense. Through them, our goal in fact is to push the borders of the United States out as far from our shores as possible to stop questionable or problematic travelers overseas long before they ever reach our shores.

The biometric visa program will allow us to do just that by helping consular officers identify visa applicants already known to U.S. law enforcement.

The Border Security Act requires that no later than October 26, 2004, the Secretary of State issue to aliens only visas that use biometric identifiers. To comply with this requirement, the State Department began deployment of the biometric visa program last September.

I am pleased to report that 55 posts now are already enrolling fingerprints, and with a very aggressive rollout schedule, the program will be in effect at all visa adjudicating posts by the congressionally mandated October 26 deadline.

We will start issuing immigrant visas with the same biometric features next month and have this program operational at all immigrant-visa-issuing posts on the same date.

Under the biometric visa program, consular officers abroad will enroll applicants' fingerprints with electronic scanners at the visa interview windows, which will then be matched against the fingerprint files of DHS's IDENT system.

Our scanner looks almost exactly like the scanner that Undersecretary Hutchinson has already shown to you.

We are currently doing the match procedure at four pilot posts and are experiencing a return time of approximately seven to eight minutes at all four posts.

If the fingerprints match fingerprints in the IDENT database, no action is taken until the derogatory information is reviewed by a consular officer overseas.

We are currently discussing with the FBI the means to readily access these files so that consular officers in the field will have the

necessary information to efficiently adjudicate the visa application to conclusion.

The most important here that I would like to underscore is that an IDENT hit overseas will freeze the visa application process until that hit is resolved, meeting that very first goal of pushing that border out as far from our own physical borders as a nation as possible.

Now moving on to cases with no hits, once the visa has been issued, our non-immigrant visa system sends the issued visa data, including the visa applicant's photo and the fingerprint identification number, to DHS. When the traveler arrives at a port of entry, the US-VISIT system will use the fingerprint identification number to match the visa with the file in IDENT and compare the visa holder's fingerprints with those on file.

This one-to-one fingerprint comparison ensures that the person presenting the visa at the port of entry is in fact the same person to whom the visa was issued.

To guard against impostors and forged or counterfeit visas, our visa data-share program has been upgraded for us with US-VISIT so that CBP officers at ports of entry have complete access to the travelers' visa files from the consular consolidated database at their primary stations.

CBP officers at ports of entry sees the same photo and the same bio data that the consular officer entered into the consular consolidated database at posts overseas at the time of the interview. This is a seamless operation.

The Border Security Act also established October 26, 2004, as the date by which visa waiver program countries must issue to their nationals only machine-readable passports, incorporating biometric identifiers that comply with the standards established by ICAO.

ICAO's decision to make facial-recognition technology the standard passport biometric was not made until May of 2003, leaving visa-waiver countries approximately 17 months to bring a biometric passport from design to production—a process that normally takes several years.

Although VWP governments share a commitment to making this change—and all are making varying degrees of progress toward complying with the biometric requirement—they have indicated at this point that they will be unable to meet the deadline.

The legislative requirements of the Border Security Act apply only to passports issued by visa-waiver program countries, but not the U.S. passport, which I firmly believe is the world's single most valuable travel document.

Although the law does not require of us what we are requiring of the VWP countries, the Department of State has a program that will produce the first biometric U.S. passport, using the ICAO standard official recognition, in October of this year.

We have planned to complete the transition to biometric passports by the end of 2005.

Embedding biometrics into U.S. passports to establish a clear link between the person issued the passport and the user is an important step forward in the international effort to strengthen border security. The Department of State is working hand in hand with our colleagues and friends at the Department of Homeland

Security to ensure that we have a system that continues to facilitate legitimate international travel and properly identifies those who pose or could pose a threat to prevent them from entering our country.

I think I speak for all of us here today when I say that the continued commitment to ensuring the sanctity and security of our borders and our nation is our number one priority.

I am happy to answer any questions you might have.

Thank you very much.

[The statement of Ms. Harty follows:]

PREPARED STATEMENT OF THE HON. MAURA HARTY

Mr. Chairman and Members of the Committee:

Thank you for inviting me to testify before you today on the role of the Bureau of Consular Affairs in implementing Section 303 of the Enhanced Border Security and Visa Entry Reform Act (Border Security Act). The inclusion of biometrics, in addition to the photograph that has always been collected, in international travel documents is an important step in continuing to improve our ability to verify the identity of prospective travelers to the United States. In the process of screening visas and passports domestically and abroad, additional biometrics can serve as a useful adjunct to existing screening processes that identify individuals who might be terrorists, criminals, or other aliens who might represent a security risk to the United States. The Department of State has invested substantial time, money, and effort to implement the additional biometrics and ensure that international visitors are aware of changes to the visa application process and admission procedures in the United States. In so doing, we have worked, and will continue to work, closely with our colleagues at the Departments of Homeland Security and Justice (including the FBI).

As you know, the Border Security Act requires that no later than October 26, 2004, the Secretary of State issue to aliens only visas that use biometric identifiers. To comply with this requirement with respect to nonimmigrant visas, the State Department began deployment of the Biometric Visa Program on September 22, 2003, at the U.S. Embassy in Brussels, Belgium, and quickly followed suit at the U.S. Consulate General in Frankfurt and Embassies in San Salvador and Guatemala City. I am pleased to report that the program is now operational at 55 visa-issuing posts and with our aggressive rollout schedule the program will be in effect at all visa-issuing posts by October 26 of this year. With regard to immigrant visas, we will start issuing biometric visas in February and have this program operational at all immigrant visa-issuing posts by October 26, 2004.

The success we are having with the rollout of the Biometric Visa Program should not detract from the accomplishments of the process itself. I would like to walk you through the nonimmigrant visa process from visa applicant enrollment to the traveler's arrival at the U.S. port of entry.

Consular officers abroad oversee the fingerprint enrollment of the visa applicants with fingerprint scanners at the visa interview windows. Enrollment time averages about 30 seconds. As soon as the fingerprints are enrolled they are sent electronically, along with the photo of the applicant and biographic data, to the Consular Consolidated Database (CCD) in Washington. The CCD relays the fingerprint files to DHS's IDENT system in Rockville over a reliable, direct transmission line, which sends the results back to the CCD for relay back to the post. The current return time is approximately seven to eight minutes at three pilot posts.

No visa can be issued until a response of no derogatory information found is returned from the IDENT system. Until such information from IDENT is received, the visa system is locked with regard to that visa application. If the fingerprints match fingerprints provided by the FBI in the IDENT lookout database, the IDENT system returns to the post an FBI file number.

At present, Consular officers at posts overseas do not have desktop access to the FBI record associated with that file number. As an interim procedure, we are processing such cases through our National Visa Center, where an FBI official receives and analyzes the FBI's records and then forwards the information to post. We are discussing means to enhance the efficiency of the process with the FBI, so that consular officers in the field will have more direct access to National Crime Information Center (NCIC) information that will be of use in adjudicating the visa to conclusion.

If there is no match against the IDENT lookout database, then the visa applicant's fingerprints are stored in the US-VISIT database in IDENT, and a finger-

print identification number (FIN) is returned to the post. Once the visa has been issued, our nonimmigrant visa system sends to the DHS Interagency Border Inspection System (IBIS) the issued visa data, including the visa applicant's photo and the fingerprint identification number.

When the visa applicant arrives at a port of entry, the US-VISIT system will use the fingerprint identification number to match the visa with the file in IDENT, and will compare the visa holder's fingerprints with those on file. This one-to-one fingerprint comparison ensures that the person presenting the visa at the port of entry is the same person to whom the visa was issued.

As I mentioned before, biometrics (including photos and fingerprints) are a useful adjunct to the existing screening procedures. Even though fingerprint data has only recently begun to be incorporated into the U.S. visa issuing process, through our visa datashare program, which has been upgraded for use at primary inspection under US-VISIT, we are able to ensure the integrity of valid visas that do not have associated fingerprint data captured at visa issuance.

I will quickly outline the process by which visa datashare helps us accomplish our goal of securing further the integrity of the U.S. visa. Under visa datashare, the biographic data and current biometric data (i.e. photo) from the issued nonimmigrant visa are stored on the IBIS computer. When the DHS officer scans the visa at primary inspection, the photo and biographic data of the applicant are extracted from the database and projected on the screen. If the traveler has altered the photo on the visa, the DHS officer will be able to make a comparison with the original photo. In one such case under US-VISIT, a woman's photo appeared on the screen, but the traveler presenting the visa was a man.

If the visa is a complete counterfeit, nothing will appear on the DHS officer's screen. In this way, US-VISIT is combating fraud and protecting the integrity of the U.S. visa. At the same time, this system facilitates travel for the legitimate traveler because the DHS officer need not spend time examining the visa to ensure its authenticity—the US-VISIT system is ensuring the visa authenticity.

The process for the biometric immigrant visa that includes a fingerprint will be very similar. The visa itself will be printed on a tamper-resistant document. There will be reliable datashare with DHS so that the DHS inspector at the port of entry can verify the identity of the traveler and the authenticity of that individual's status as a new immigrant.

Let me now turn to the issue of the U.S. passport, which I firmly believe is the world's most valuable identity and travel document. First, I think it is important to note that improving passport security is not a one-time effort. Instead, we are involved in a process of continuous improvement that affects not just the physical passport carried by an American citizen, but also the adjudication process that determines whether an applicant is in fact a U.S. citizen.

Our latest efforts to improve the U.S. passport began in the late 1990's with the introduction of photodigitization technology to support passport printing. Instead of gluing a physical photograph of the applicant into a passport and protecting that photo with a laminate, we introduced an entirely new technique that takes advantage of the many improvements in digital technology during the last decade. Photodigitization has been an unqualified success. Any passport with a physical photograph is inherently susceptible to photo substitution. We have now produced over 25 million passports using photodigitization and the number of credible alterations we have encountered still number in the single digits. I should add that domestic photodigitization has been so successful that we have, in turn, returned the production of passports issued abroad to our U.S. domestic production facilities so that we can take advantage of the significant security improvements embodied in the photodigitization process.

But, as good as photodigitization is, it is not the end of our efforts. We are currently undertaking a total redesign of our passport book to introduce the latest generation of security features as well as a total update of the physical appearance of the inside of the book. More significantly, we are also undertaking a massive effort to introduce embedded biometrics into the U.S. passport through the insertion of a contact-less chip, which will store biometric and biographic data including digital photos. I think it is important to note, however, that the legislative requirements in that section do not apply to U.S. passports, only to passports issued by our partner nations in the Visa Waiver Program.

Embedding enhanced biometrics into passports so that a clear link can be established between the authorized bearer of that passport and the user is an important step forward in the international effort to strengthen border security. We recognize that convincing other nations to change and improve their passport requires U.S. leadership both at the International Civil Aviation Organization (ICAO) and practically by introducing these changes into the U.S. passport. Thus, the Department

of State has underway a program that should result in the production of our first enhanced biometric passports using the ICAO standard of facial recognition techniques in October of this year and we plan to complete the transition to this new biometric passport by the end of calendar year 2005.

In addition to our enhanced biometric initiatives, we are moving forward aggressively on two other programs to further improve further the U.S. passport. The first of those programs is to redesign the passport itself. We are well advanced on this project and expect to have these new books in large-scale production later this year. We have also implemented and expanded our data base which immediately alerts ports of entry to any passports reported lost or stolen.

The second is to strengthen further our passport adjudication process. We are negotiating new datasharing agreements with agencies such as the Social Security Administration (SSA) so that we can gain access to SSA data, which when combined with data from other sources, will help to identify possible irregularities in passport applications. We are also receiving additional data from the law enforcement community to help prevent issuance of passports to persons who may be flight risks. We are examining the possible uses of decision based software techniques and commercial database searches as part of a longer range effort to give passport adjudicators every possible tool to ensure the accuracy of their decisions. We will complete the scanning of applications with images for all currently valid passports by April, making them available at the desktop level worldwide to assist in adjudication. Finally, we should soon sign an agreement with DHS that will allow border inspectors access to these electronic copies of passport applications as a way to help strengthen our processing systems for returning American citizens.

Now that I have addressed the accomplishments that we are making towards improving the biometrics currently in our passports, I would like to focus on other countries efforts towards the same end. The Border Security Act set October 26, 2004 as the date when VWP travelers with passports issued on or after that date must also have biometrics (digital photos) incorporated in those passports that meet the ICAO standard for use in visa-free travel to the United States. Visa Waiver Program (VWP) governments have indicated that they will be unable to meet the legislatively mandated deadline to issue to their nationals only machine-readable passports (MRP) incorporating this enhanced biometric identifier that complies with the standards established by the ICAO.

ICAO's decision to make facial recognition technology the standard passport biometric was not made until May, 2003, leaving countries only 17 months to bring a biometric passport that meets that standard from design to production, a process that normally takes years.

Moreover, while the VWP country governments share a commitment to make this change, many of them are encountering the same problems being experienced by the Department of State in our effort to introduce embedded enhanced biometrics into the U.S. passport. These issues include needing final decisions through the ICAO process on security matters, resolution of interoperability matters, as well as comprehensive testing to ensure that the chips work successfully and that they will continue to do so through the validity of the passport, which is 10 years in most cases.

We have vigorously encouraged VWP countries to issue biometric passports that meet the ICAO standard by the October 26, 2004, deadline. The U.S. has played a leadership role in ICAO working groups to advocate the successful inclusion of biometrics in travel documents. In the G8 we strongly advocated support for ICAO leadership in biometrics and participated fully in a special working group on biometrics established by the G8 ministers of Home and Justice Affairs. We are fully engaged in the group of 5 (US, UK, New Zealand, Australia, Canada) in which there are continuing discussions on progress regarding each country's efforts to produce the passport.

On the margins of international conferences, we have had repeated meetings with VWP representatives to explain the process; at trade conferences, State Department officials have made many public appearances to educate VWP government representatives about the requirements and deadlines. Many VWP countries have sent representatives to Washington to meet with U.S. government representatives and had full and open discussions on the issue. In December, the Secretary of State sent a diplomatic note to the VWP Embassies in Washington that conveyed the criteria for certification of a biometric passport program and also noted that there is no waiver available for the production deadline. The State Department followed up by sending the text of the note to U.S. Embassies in the VWP countries and requested the Embassies deliver the information to the host government and have them reply by January 10. We are still receiving responses from those countries.

In testament to our efforts, all VWP countries are making varying degrees of progress toward complying with the requirement to have a program in place to issue

biometric passports; however, only one or two countries may have production capability in place by October 26, 2004. None of the larger countries (Japan, the U.K., France, Germany, Ireland, Italy or Spain, for example) will begin issuing passports with the ICAO biometric by October 26, 2004. Japan and the United Kingdom say they will begin in late 2005; others may not come on-line until a year after that.

Since travelers from VWP countries with non-biometric passports issued on or after October 26, 2004 will need visas to travel to the U.S., we estimate that the demand for nonimmigrant visas will increase significantly over fiscal year 2005 to over five million applications, nearly double last year's workload. However, once VWP countries begin issuing passports with biometrics, the increased workload will disappear. For example, in fiscal year 2003, mission Japan (Tokyo, Osaka, Kobe and Naha) processed approximately 111,000 nonimmigrant visa cases. The Japanese estimate that between October 26, 2004, and the introduction of their biometrics-bearing passport projected for November 2005, between 1.2 to 1.5 million Japanese would need visas. In fiscal year 2006, the number would likely drop back to current levels.

The Department of State is working hand in hand with our colleagues at the Department of Homeland Security to ensure that we have a system that continues to facilitate legitimate international travelers and properly identifies those who pose a threat to prevent them from entering our country. I think I speak for all of us here today when I say that the continued commitment to ensuring the sanctity and security of our borders and our nation is the number one priority. I am happy to answer any questions you may have. Thank you very much.

Ms. GRANGER. And I thank you very much.

I have a couple of questions. But, first, Undersecretary Hutchinson, you gave some excellent examples of people we have stopped from coming into this country because of this system.

But can you tell me specifically if someone gets to the airport, what databases exactly does the biographical and biometric information run through?

Mr. HUTCHINSON. The check goes through the Interagency Border Inspection System, the IBIS system, which is a database that includes information from 26 other databases, including the Department of State's CLASS, the TIPOFF databases.

And so the various interagency databases that would give you the necessary information to trigger a hit would be included in the IBIS.

In addition, we are linked to the TSC, the Terrorist Screening Center, for their list that they put together for strictly the terrorist watch list.

Ms. GRANGER. Very good. And when the traveler is screened through US-VISIT, does the IDENT start to take place in the primary inspection? Does it go through the primary inspection?

Mr. HUTCHINSON. Yes, this is all done in the primary inspection.

Ms. GRANGER. And you told us, again, how long does that take and how much does that add to the time?

Mr. HUTCHINSON. Actually we are measuring it very carefully, and the time for the system to do the check is on average eight seconds. And that would be from when the finger scan is taken, running through the system and back, eight seconds.

We have not noticed any appreciable difference in any wait times, which we have been monitoring. And one of the reasons is, the inspectors obviously are conducting other business as these checks are going on and asking other routine questions.

The eight seconds is actually cutting in half the response time under the previous system because of the upgrades in the system that we have been able to implement through US-VISIT.

Ms. GRANGER. Oh, very good, thank you.

Secretary Harty, there have been press reports criticizing US-VISIT because the 27 visa-waiver countries will not be processed through the system. But can you tell me what the State Department is doing to enhance the security in those passports?

Ms. HARTY. Thank you for the question, ma'am.

The visa-waiver program administered by DHS with State Department concurrence in various aspects of it is a congressionally mandated program by which the meets and bounds are defined.

The 27 countries in the program now have been judged to be low-risk countries, travelers presenting less of a risk than others out there. That implies, to a degree, a face in the issuance ability and the integrity of the documents as issued by their own respective countries.

We are always eager to continue to work together. We have very, very good relationships with the 27 countries in the program. We have been very communicative with them about the deadline that Congress has set for next October 26, 2004.

This does give us pause and I am glad that you raise it. It gives us pause because this is a challenge for us that has a rather finite sort of beginning and end to it.

All of the countries in the program, about 80 percent of visa-waiver travelers, come from Japan, the United Kingdom, Germany, France, Italy and The Netherlands. All of the countries in the program are striving to make the deadline.

As they do make that deadline, the problem in their countries of our having to issue visas to their nationals will in fact wane.

If I were to have to begin to issue visas to all visa-waiver countries right now, it would, we estimate, be upwards of 5 million additional visas we would have to adjudicate. That would cause me to think about having to hire hundreds of more consular officers and even foreign service national employees—again, for a challenge that is somewhat finite in nature—as the visa-waiver countries come into compliance with the October 26 deadline, at whatever point they are able to do that.

As a manager, I cannot, in all honesty, justify hiring so many more people, perhaps even looking at constructing some sort of additional space at consular sections or consulates around the world to handle that workload.

So what we are doing is making sure the countries understand the deadline.

We are making sure that our own procedures will call for us to be as agile as possible, being concerned with what another member of the committee spoke about earlier, a facilitation of travel, also important to us.

The visa-waiver countries in the last five years have accounted for some 68 percent of people who have come into this country—exclusive of those who come in from Mexico and Canada. This is a huge number of people. We do not want to deter that travel.

What we do at all of our consulates and embassies is make sure that the emergencies are taken care of, that students who have a need to be here at a certain date will go to the front of the line, that medical cases will go to the front of the line, that business people who have a precipitous meeting of which they were previously unaware go to the front of the line.



We will handle it just as efficiently as we possibly can. We have asked for 161 new officers for this fiscal year, and 123 for next fiscal year.

We will do the very best we can to facilitate legitimate travel to this country, but always keeping security as job one, ma'am.

Ms. GRANGER. I am still a little unsure about what specific security procedures they will go through, then. I understand putting emergencies at the front—

Ms. HARTY. Thank you for that question, ma'am. I should have added that visa-waiver-country travelers at the ports of entry go through exactly—their names are checked through exactly the same procedures as a namecheck is done overseas, simply done by an inspector at a port of entry rather than at an embassy overseas.

Ms. GRANGER. One last question for you, Secretary Harty: Do you know if primary inspectors have access to the State Department consular consolidated databases? And how does this improve their screening ability?

Ms. HARTY. Oh, yes, they do, and we are very proud of that partnership.

I think that there is nothing better than an inspector at a port of entry being able to know that he or she is in fact absolutely and without a shadow of a doubt looking at the same person who a consular officer has already looked at overseas. And they do that by being able to pull up the photo that we capture overseas. And that is done very, very quickly.

So if you were to apply for a visa this morning in Buenos Aires, Argentina, and show up at Miami airport this afternoon, that inspector would have that.

It is refreshed every seven or minutes around the world, so it is very real time access to data that I think is very useful to both sides.

Ms. GRANGER. Thank you very much.

Ms. HARTY. Thank you.

Ms. GRANGER. And, Secretary Hutchinson, you talked about how important US-VISIT is because it checks the people that are coming in and all the security. But, then, the other thing is, as they leave to make sure that they have left and who is leaving was the same person that came in.

So what mechanisms are used to ensure that those people go through the US-VISIT exit process and actually leave the country?

Mr. HUTCHINSON. First of all, the exit procedure would be information-base at our airports, and seaports, in which we would get the departure passenger information from the airlines or the cruise lines which would indicate that they left.

So biographically we can determine visa overstays who leaves.

Your question is, how can you confirm their identity? That's what we are testing at the Baltimore airport in a kiosk-type solution, that we would have assistance provided to the passenger as they check out.

The question would be: What mandates them to do that? How can you guarantee that they do that?

We are looking at different solutions. There are significant issues there, whether we put a gate solution, whether we put it near the TSA screening counter.

But it is a mandatory requirement for the visitor to check out. And if they fail to do that, we can monitor that with the passenger information that is provided by the airlines.

And then there obviously would be a penalty attached to it in the sense that they would have a more difficult time re-entering if they did not exit in a proper fashion.

Ms. GRANGER. And what is the date that you are looking at to have that completely operational?

Mr. HUTCHINSON. Well, as soon as we can. But that is a part of the goal that we would have for calendar year 2004, would be to formalize the exit system and to have the final exit solution determined for our air and sea ports.

As to the full implementation date, we have not set that yet.

Ms. GRANGER. One of the concerns that has come up so many times is, people who come in the country, whether they are students, whatever, a particular period of time, and there was no tracking and so they actually didn't either return to school or go to school. That will be a part of what you are doing also, will issue a report to say who has overstayed their visit also, isn't it?

Mr. HUTCHINSON. Well, first of all is to have the information. And we do. You mention the foreign students, of course, would be under our SEVIS, student exchange visitor information system, which is tied into US-VISIT, in which we would have the information when they left the university and also left the country.

We are setting up and have set up an office of compliance in ICE, Immigration and Customs Enforcement, which will be responsible for handling this information for visa overstays. It will be a vast amount of information that is created from US-VISIT, the SEVIS system. We are building that capacity, but that will be the enforcement responsibility of ICE.

Ms. GRANGER. Thank you very much.

Ms. Sanchez may inquire now.

Ms. Loretta SANCHEZ of California. Thank you, Madam Chair.

And once again, thank both of you for being here.

Madam Chair, before I ask my questions, I would like to submit for the record some testimony from Ed Petrarch, who is a senior Customs and Border Protection Officer at LAX, which respect to what is going on with U.S. visa.

In his testimony, Assistant Secretary, that I just submitted, one of the things that this senior Customs and Protection officer says is that they are pulling off of cargo screening to process low-risk U.S. citizens and green-card holders so that there is an acceptable flow of passengers in the international terminals under this US-VISIT.

In other words, they are getting pulled off cargo inspection to process people.

So my question is: What have you asked for with respect to personnel needs for this coming year? How many more people do you need if you are pulling people off of one situation to try to work on another situation?

Mr. HUTCHINSON. Thank you, and that should not be the case.

The same individuals prior to January 1 of this year that did the inspection at our ports of entry in terms of processing people are still doing it. There has not been a shift in resources.

There may be emergency circumstances. But I do not believe there has been any significant shift of resources to implement US-VISIT. It is the same people that were there before to do it.

In terms of new resources, that will be a part of the budget submission in our testimony this year. We have enhanced, thanks to the help of Congress, our inspection resources. And we, with monitoring the wait times and not adding additional resources for the US-VISIT implementation, I think we have been successful with our existing resources.

Ms. Loretta SANCHEZ of California. That is nice. Again, the testimony says that this is just not the case at LAX. So I would ask that you might follow upon that and that you get back to us about just what resources are required.

[Copy maintained in the Committee files.]

Now, there is also an internal memo that was done by Assistant Commission Ahearn that outlined some mitigation strategies when US-VISIT wait times exceed one hour.

The strategy simply is a series of fall-backs where you collect biometric fingerprints from fewer and fewer people.

First, if it is over an hour, don't do those who are under 17.

Then if the wait is still too long, don't do those that have biographical and photo data from the State Department.

Next, if there is a family traveling together, only do the head of household.

And finally, move to sampling from certain types of visa holders.

Why is your mitigation strategy to just keep letting more people go through without doing what you just told us is the intent of this program rather than to assess high-peak times, or suggestive high-peak times, and figure out how much personnel you really need to do that?

Can you explain why this memo and?

Mr. HUTCHINSON. Thank you. This is a new system. And so as it was rolled out on January 5th, even though we had great faith in it, we didn't know exactly how it would progress, whether there would be difficulties.

We wanted to have some flexibility in the early stages of this implementation that we didn't clog up our airports.

Well, it wasn't an hour tied to mitigation strategy; it was if the wait times exceeded 10 percent over the normal wait times, then they could implement a mitigation strategy.

But the good news is that there has been no instance in which that mitigation strategy has had to be implemented, because the wait times have not increased to that level. And we have no reason to expect that it will.

So it was a precautionary step at the initial phases of the implementation of US-VISIT.

Ms. Loretta SANCHEZ of California. So you are saying that this memo in effect has no relationship to what is really going on.

Mr. HUTCHINSON. Well, it had a very important foundation of starting this rollout on the first day. But it was a backup plan in the event that there was delays caused, or unforeseen circumstances, as we processed US-VISIT visitors.

That has not been the case. I do not anticipate it being the case in the future.

Ms. Loretta SANCHEZ of California. But if you had longer waits, what was stated in this memo is the way that things would be implemented currently.

Mr. HUTCHINSON. Correct. That was a memo that we did send out. What you recited was not precisely what the plan was. But there was a mitigation strategy.

You know, we have electrical outages from time to time. Well, there is a mitigation strategy. When the system goes down, you do things in the old way.

And in the same the US-VISIT, if we had to go to orange, we might increase and broaden the requirements in a time of heightened alert.

That is one of the benefits of this system is, there is some flexibility in it.

And if from whether a power outage or other problems, it can be adjusted in other ways.

Ms. Loretta SANCHEZ of California. I just find that not collecting the information when really that is the main reason for having this program is certainly a very strange way to mitigate, not having enough resources.

I have some other questions, Madam Chair, but I see that my time is over. So I don't know if we are coming back for a second round, or I will submit—.

Ms. GRANGER. Then we can.

Ms. Loretta SANCHEZ of California. —to be answered by both the undersecretary and the assistant secretary.

Thank you both for being here.

Ms. GRANGER. Thank you very much.

The chair now recognizes Chairman Cox for five minutes.

Mr. COX. Thank you, Madam Vice Chairman.

Again, welcome Undersecretary Hutchinson, Ambassador Harty.

There has been a bit of news recently from the 9/11 commission. The 9/11 commission reported that more than one, at least a few, of the 9/11 terrorists, possibly as many as eight, forged their passports.

We also know that when they filled out their visa applications, they either lied or in other cases just did it differently than they were supposed to.

If US-VISIT is in place in the future and that pattern were to repeat itself, what difference would it make?

And, Undersecretary Hutchinson, if could begin with you.

Mr. HUTCHINSON. It would make a significant difference. That is one of the benefits is that there is less reliance on fraudulent documents.

Usually a false passport has a false identity.

First—and I am sure Maura Harty would want to comment on this—that would probably be prevented at the consular post when the biometric is taken there. We will not have an assurance that the person passing through the port of inspection is the same person that they actually gave the visa to.

And then secondly, we will be relying upon their biometric to confirm that identity rather than simply the passport.

Mr. COX. Ambassador Harty, do you want to address that as well?

Ms. HARTY. Certainly, thank you, sir.

I agree completely with what Undersecretary Hutchinson said, that it would be our very strong belief, and our experience even, in the information base of this new program that the inspector at a port of entry is going to know, flat out know, if the person in front of them is the person who was seen at the embassy. They have a photo right there in front of them.

And they also have what we have done. Using our reader, we have taken a biometric, we have taken their fingerprint at our embassy or consulate. We have run that name against the IDENT system so we will know if there is any previous information on a person already in the system.

Should we then move to the next step of issuing a visa, then that same process will in fact occur at the port of entry.

So it is really a second check on the identity of a person and something that knits up and marries up the bearer of the passport with the face, with the person we have seen at a port of entry.

So that in fact would be a little bit different than the scenario in the past.

Mr. COX. Now, this recent news from the 9/11 commission also informs us that at least one of the 9/11 planners applied for a visa using an alias in Saudi Arabia. Would this program have stood in the way of that?

Mr. HUTCHINSON. Two things would happen there.

You mentioned Saudi Arabia, that the consular offices there would receive the application for a visa. We also have a visa security officer of the Department of Homeland Security in Saudi Arabia that would add a security perspective on that visa check.

So that is something that is new that we did not have two years ago.

And then that name, if it is an alias, would be checked against all of the watch lists.

I believe that we have an enhanced capability to determine that that is an alias to the checks that we have if it is not a legitimate name. That is the purpose of the background check.

Mr. COX. Ambassador Harty?

Ms. HARTY. Sir, if someone were to come into a consular or an embassy overseas, and have a completely clean background, such that they had never been in the United States before, or had never come to the attention of any of the various entities who contribute to the watch list that we have as a nation, it is in fact possible that we would not know it were an alias, if they had never come to our attention before.

But we do have another thing that we are working now.

One is, if they have ever come to our attention before in that we have previously seen them and issued or refused a visa, now that US-VISIT is up and running, now that we are enrolling people overseas, we have their fingerprint, so that if we have ever seen them before, despite the fact that they have used an alias, we have their print and we will know that.

While that is one program as we have described up and running now and getting better every day, we do have another thing that we are looking at, and that is facial recognition. It is a technology that is maturing.

However, we have a program at 13 different posts overseas as well as what we are exercising in conjunction with the diversity visa lottery to begin to explore yet another technology beyond the fingerprint that we already have.

So we have technology we are using as well as technology that we are experimenting with. We are always trying to push the envelope, sir.

Mr. COX. Just lastly on this watch-list question, I want to ask you about the testimony that the 9/11 commission received yesterday, that apparently having your name on a list of suspected terrorists does not guarantee you a place on the FAA's no-fly list.

And as I understood the testimony, that may still be the case. Is this correct? And what impact would a suspected terrorist presence, or non-presence, on FAA's no-fly list have in the contest of the US-VISIT program?

Mr. HUTCHINSON. Well, the no-fly list, of course, would certainly—one, they would not be flying on the airplane to enter our airports, if they were on the no-fly list. They should not be on there to begin with.

And so as part of our security measures, that should be caught before they would get on that aircraft. And then in the event that the system failed in a foreign country, we would know about that before they landed by checking the biographical data.

Your question is about whether everybody on other watch lists, FBI's and so on, is on the TSA no-fly list. And the answer there is that any agency can submit a name for the no-fly list—CIA, FBI—but it has to be more than just a name.

We obviously want to have the biographical data, either an address, a date of birth, because if you submit just a name, it might hit against 200 different people that would be flying, particularly if you used a very common name, "John Smith in the United States," or a very common name in the Arab world, then it is not really accomplishing anything by putting that on the no-fly list.

And so that is part of the distinction and discussion. We are obviously wanting any information that would help us identify those people that would be at risk. But we also want as much information from the agencies as we can get.

Mr. COX. Thank you, Madam Vice Chairman.

And I thank our witnesses once again.

Ms. GRANGER. Thank you.

The chair now recognizes Representative Pascrell for five minutes.

Mr. PASCRELL. Thank you.

Just some quick—

Ms. GRANGER. Can I stop you? I am sorry, I didn't see Mr. Turner come in. I apologize.

I recognize Mr. Turner now for five minutes.

Mr. TURNER. Thank you, Madam Vice Chairman.

Mr. Hutchinson, I understand Ms. Sanchez was asking you about the problem of wait time, particularly at the airports. And I have taken a look at this memo that was issued by the department to field operations on January 2nd. And that was the memo that lowered the wait time—or stated that if the wait times exceeded one

hour, then you could waive the US-VISIT process, and prior to that, your regulation was that if the wait time exceeded two hours.

Now, it is strange to me that during a period of orange alert, you changed the rules and you told field operations that if there is a wait time that exceeds an hour, you can just waive all these requirements, when previously at least you had a two-hour rule.

So it seems like you sent a terrible signal to field operations with regard to the meaning of US-VISIT.

Because—

Ms. GRANGER. Representative Turner?

Mr. TURNER. If I read this—

Ms. GRANGER. Would the gentleman yield, please—

Can the witness have a copy, please—

Mr. TURNER. Sure.

Ms. GRANGER. —before you question him about that. He does not have a copy of that memo.

Mr. TURNER. Asa, would you like a copy of this?

Mr. HUTCHINSON. I would be happy to look at it, but go ahead and ask me questions.

Mr. TURNER. There was an article that I read on a Web site, World Daily Net, where several of the frontline screeners were quite upset with this change, because they felt very strongly—and I could quote a couple of them to you.

But the bottom line is, we know that the intent of US-VISIT, according to Secretary Ridge, is to add about 15 seconds to the wait time of an average passenger. That is what we are told anyway.

And so to me it seems like at the very point in time when you are implementing the system to say that if the lines get so long and the backup such that we are going to have an hour wait, then you can just waive the program and bring people in.

Not only is it a significant security risk?because as you know, you are building a system that obviously will do what you said in your opening statement. It will catch a lot more criminals and a lot more immigrations violations than we have ever caught before just because we are creating the system.

But that is not the standard.

You know, this system, unfortunately, has got to be airtight. And if we already are loosening the rules, then I think we are moving in the wrong direction. And more important, I think it sends a terrible signal to those frontline workers who are out there dedicated to making this work and knowing the importance of what they are doing, and then to say, well, if the wait lines are too long, just waive all this stuff and let everybody on in.

So I would urge you to take a look at that, to make hopefully a reassessment of that, and certainly make it clear to those who are out there on the frontlines, working for your agency, that we want this system to work and be implemented, and that this is not a system that just because the lines are long we will waive it.

Now, I recognize that we are going to have a lot of pressure?and I am sure you felt it—from those who are concerned about backlogs and the effect on travel.

But the way we have to deal with that is reallocation of resources to be sure that we move people on through in a timely way.

And to send a message this early that we are going to loosen the rules, I think is a bad signal for us.

The other area that I have concern about is one I have expressed on numerous occasions, is about your linkage to the Terrorist Screening Center.

We all know that the Terrorist Screening Center is not yet collecting on a real-time basis the information from other databases. In fact, in many cases the information on many government watch-list databases haven't yet been incorporated into the unified terrorist watch list.

But in terms of the way it is working for you now, I want you to describe for me, if you will, whether the data used by US-VISIT is adequately comprehensive and up to date? And describe the relationship between US-VISIT and the Terrorist Screening Center.

My impression is, that is not a real-time linkage. And even when you submit information to the Terrorist Screening Center, they have to manually check all these other databases.

And even on the important FBI list that they maintain, that you utilize, through the IDENT program, the FBI doesn't update that list but once every two weeks.

So what I am interested in is, what is the state of achieving what I hope some day we will be able to say is a real-time system of screening for terrorists that will be available to your frontline inspectors so that when somebody walks through and enters our country and walks through the inspection station, they can get the information back in real time to know whether that person is a dangerous person.

Mr. HUTCHINSON. Well, the check is first against the Interagency Border Inspections System, our IBIS database, that has 26 different databases, including the State Department's, including the Department of Justice, other databases that make that up, including Treasury, with our tech system, including the Justice Department.

And then it is also checked against the terrorist list from the Terrorist Screening Center.

Now is it real time?

If a name is added by the Terrorist Screening Center to the watch list, it is in real time communicated and refreshed with our databases so it can be an immediate hit if that passenger would try to come through.

Now can the system be improved? Absolutely. This is a new system. We are building the capacity. The TSC is strengthening its ability as well. This is being refined every day.

But I believe that with the technology that we have, being ahead of the schedule, the biometrics, that we have enhanced the ability of increasing our security at our ports of entry with US-VISIT even over and above what the congressional mandate was.

If I might go back to your first question about the memo that was sent out, it was not a change—it had nothing to do with whether it was two hours at our land borders during orange, because there was different wait times if it was at a heightened alert level.

As we implemented US-VISIT, we specifically looked at what happens if the system does not work right or it takes longer. And



on the first initial phases of it, this memo was sent out. For example, we are not including in the regulation people who are older than 79. Well, I think that is a reasonable exclusion from those that we would have finger scans on. But if we saw excessive problems, we would reduce that to age 69.

Now, I think that is a reasonable step in the initial phases as we implement US-VISIT. It has not been used. But if it was necessary, it would not be by a line inspector, it would be by a supervisor that would have to make that decision.

And we have not had to use that. I do not expect we will have to use that. But I think it was a prudent step to take as we rolled this out in 150 airports on the first day.

Mr. TURNER. Well, I just want you know, I have talked—.

Ms. GRANGER. Mr. Turner, your time has expired. We will have a second round.

The chair now recognizes Representative Shadegg for five minutes.

Mr. SHADEGG. Thank you, Madam Chairman.

I want to follow up on a question both by Mr. Cox and by Mr. Turner and have you clarify for me.

I recognize that biometrics do a great job of ensuring that the person who showed up to obtain the visa at the consulate outside this country is the same person who then shows up at the port of entry coming into the country.

But Mr. Cox asked I think what is the critical question and that is, what if that person, intent on deceit from the get-go, and they show up with the intent of using a false name to apply in the first place.

Mr. Under Secretary, you indicated that they check at I think you call it—is that interagency border data system? Is that right? And is that checked when they show up at the port of entry? Or is that checked when they show and apply for the visa at the consulate outside the United States, I guess is my first question.

And second question would be: Is that the only database that is checked, or are there other databases that are checked as well at that initial stage to try to find out if the person presenting himself or herself is who they claim to be?

Ms. HARTY. Thank you for the question, sir.

With reference to what happens at a consular section overseas the consular officer runs what we call a CLASS namecheck, that is what we call our system. There are other systems of the government that feed into that.

CLASS is built, and in fact the U.S. government's counterterrorism watch list at this point, is built on a system started by the State Department in 1987 called TIPOFF.

Recently, over the last several months, TIPOFF's database has migrated over to TTIC and TSC.

TIPOFF had 120,00 names in it. It is being augmented every day per Homeland Security Presidential Directive No. 6, so that all agencies are beginning to feed as TIPOFF did. But TIPOFF formed the very spine of the new single database that we are all working towards.

The consular officers cannot, as they adjudicate a visa, hit the print key on a visa until they have run that namecheck, first and foremost.

Now, with US-VISIT, what we have done in the 55 posts where we are already up and running is, we are adding to that, the biometric collection. So, in addition to running our CLASS namecheck, based on the TIPOFF watch list, we also now run the biometric namecheck in four posts, at this point: Riyadh, Jeddah, Sanaa and San Salvador.

We are waiting until we get the namecheck back from the IDENT system, DHS's IDENT system, before we actually go ahead and issue the visa.

We will, of course—it is brand new; this is a pilot—but we will be bringing each of those online in the days, weeks and months ahead.

The time that it takes from the time that we ask IDENT, “What about this fingerprint? What do you know?” and by the time we get an answer back, it has been about seven to eight minutes; again, not adding too much.

Mr. SHADEGG. I think you have just told me what you told Mr. Cox, which is that if they haven't encountered the system already and if they are not in our database as having an issue as to whoever they are, that person, they can get by the system.

And I guess my question would be: How do we go beyond our own database to look at the individual? Is there a way that we coordinate with host countries to find out some verification that this person is who they say they are?

Ms. HARTY. Thank you, sir.

One of the things that changed dramatically in the post-September 11 world is our strong, strong emphasis on interviewing techniques and on using the visa interview as a genuine tool to spot people who might or might not be exactly what they say they are.

So we have at the consular officer training at the Foreign Service Institute added additional courses on detecting deception, added additional courses taught by other agencies of the government who give us up-to-date information on trends out in the field of a counterterrorist nature.

We have taken a detecting deception course and added it to the basic officer training course. We have also taken it on the road so that mid-grade and more senior officers can also get this training.

In addition to that, several years ago we formed what is called a VISAS VIPER Committee meeting at post. That is where, on at least a monthly basis, all officers at an embassy in law enforcement—I am sorry.

Mr. SHADEGG. I am running out of time and I wanted to get in one more question, but go ahead.

Mr. HUTCHINSON. There is layered protections from the interviews and to the checks that are done. But certainly, theoretically someone could come in with a clean record, with an alias name, and if they are not in the system before, if we don't have their fingerprints, the first time through it would not be a catch.

Mr. SHADEGG. I appreciate your candor on that. And I think you will never build a system where that cannot happen. I just wanted to know if they were working at it.

Let me ask the last question: When I go home to Arizona and I describe all the work of your department and the efforts that are being made to deal with people that present themselves at a border checkpoint, or a port of entry, to tighten down and US-VISIT and all these other efforts, they kind of tilt their heads and look at me as if to say, "Congressman, you are crazy. Have you ever looked at the border?"

What difference does it make if we do all these things at our ports of entry when, on the southern border of my state, there literally is not even a three-strand barbed wire fence for the majority of the border?

And I guess I would be interested in how you would respond to that question from a constituent.

Mr. HUTCHINSON. They are related. And obviously you have got to have two tracks going in the same direction. One is tightening it up at the ports of entry, which we are doing. That, in essence, could force illegal entrants to come across the land borders. And so, you have got to tighten that up as well. We are addressing that through technology in the same way, but they are related, and we have to do both.

Mr. SHADEGG. Thank you.

Ms. GRANGER. Thank you.

The chair now recognizes Representative Pascrell for five minute.

Mr. PASCRELL. I have some quick questions, and then I have some ones that perhaps you can elaborate on, Mr. Secretary.

Have we tested and come to the conclusion as the reason why we are concentrating on fingerprints in this biometric quest, here, has it proven to be more conclusive than facial identification, hand geometry, handwriting, retinal tests and voice? Is that the conclusion you came to?

Mr. HUTCHINSON. The conclusion is that it is more widely accepted in the international community, and we have obviously the added feature with finger scans that you have databases of criminals and terrorists that are taken in that fashion. You don't have the same databases of retina scans, for example.

Mr. PASCRELL. Is it more accepted than it is accurate?

Mr. HUTCHINSON. Well, I think it is both accepted and accurate.

Mr. PASCRELL. Okay, my next question is, if I may: Approximately how many photographs do we have of suspected terrorists that we can compare to the digital facial photographs we now take of foreign visitors, approximately?

Mr. HUTCHINSON. I don't have that exact number for you.

Mr. PASCRELL. Could you get that to us, please?

Mr. HUTCHINSON. I would be happy to.

Mr. PASCRELL. Is there a database of fingerprints that we have of suspected terror?

Mr. HUTCHINSON. Yes.

Mr. PASCRELL. We do have that database?

Mr. HUTCHINSON. Yes.

Mr. PASCRELL. You have that database?

Mr. HUTCHINSON. Well, it is accessed through?

Mr. PASCRELL. No, I don't mean you personally, but your department?

Mr. HUTCHINSON. Yes, absolutely.

Mr. PASCRELL. Okay, my next question is this: You referred to the history of security in terms of trying to see who is coming in and out of this country.

I want to go back to 1998, in the Senate Judiciary Committee. In fact, a few people mention this in their testimony. And in that report to the Congress of the United States on border improvement and immigration, it is interesting. You go back to see, you know, where we have come in four years due to the tragedy of 2001.

"The committee is keenly aware that implementing an automated entry-exit control system has absolutely nothing to do with countering drug trafficking, halting the entry of terrorists into the United State or with any other illegal activity near the borders. An automated entry-exit control system will at best provide information only on those who have overstayed their visas.

"Even if a vast database of millions of visa overstayers could be developed, this database will in no way provide information as to which individuals might be engaging in other unlawful activity. It will accordingly provide no assistance in identifying terrorists, drug traffickers or other criminals."

I would like your brief comment on that, if I may.

Mr. HUTCHINSON. Well, again, you point out that one of the original focuses was that you would be able to identify visa overstays to add integrity to our immigration system. As that was in 1998, that changed somewhat after the attack on America, and there was a renewed focus by Congress that not only is it important for the integrity, but also for security purposes.

And so, there was additional features and requirements that were made and probably a little bit different perspective was added after that.

Mr. PASCRELL. And my final question is this?and I thank you for your candidness. We can go back over this again at another time. I think it is important enough.

Once the visa holder is enrolled in US-VISIT, his or her arrival information will be stored in the automated fingerprint identification system, better known as IDENT. It is a biometric database. That is correct, isn't it?

Mr. HUTCHINSON. That is correct. That is correct.

Mr. PASCRELL. Am I right in thinking that the information for applicants for admission under the US-VISIT with no criminal record are contained in the same database as individuals for whom DHS is on the lookout for? Is that accurate?

Mr. HUTCHINSON. Well, they are contained in the same IDENT system, but there would be an individual file, really, for each individual traveler, and it is separated from the criminal databases that would be associated with that.

Mr. PASCRELL. Mr. Secretary, in conclusion, let me say this: I think that is unacceptable. I think to include within the same database of criminals or those that have been identified with criminal activity. All immigrants is an insult to every immigrant that comes into this country under this particular program.

I would suggest through the chair that you examine that situation, separate these folks out, because they are not criminals. You know that just as well as I do.

Ms. GRANGER. Thank you.

Representative Dicks is now called on for eight minutes.

Mr. HUTCHINSON. Madam Chairman, could I respond to this—

Ms. GRANGER. Yes, you may.

Mr. HUTCHINSON. —very appropriate question by Mr. Pascrell?

And I thank you for that comment. And we certainly would not want to do anything that would denigrate or be offensive to our immigrant population.

I would just emphasize that, for example, IDENT has the FBI database as part of that. And there are separate databases within that, so it would be a separate system for those people that would be coming in, myself—or not myself—but any foreign visitor that would be traveling. That is held in there for facilitating their travel and the second time around.

So I appreciate your point, and we certainly want to make that distinction.

Ms. GRANGER. Thank you.

Representative Dicks?

Mr. DICKS. Thank you.

The first increment of the US-VISIT program relies on two fingerprints, isn't that correct?

Mr. HUTCHINSON. Yes.

Mr. DICKS. One from each index finger for the purpose of checking that individual's identity against the various databases.

As we have discussed before, two prints are not always reliable for finding a person's records in some of our databases. For example, the FBI's IAFIS system uses all ten prints and will often not return a match when only two prints are used.

GAO and some of the biometric industry have said that more prints may be necessary for US-VISIT to work as well as it needs to.

Now, you and I had this discussion, but to hear the discussion today, 600,000 people have come in and, through this system, used their two index fingers.

Now, if we had done this right and had them do either eight or ten, we would have a much more reliable system. We are going to have to go to that at some point in order to make this thing work properly, as you and I have discussed—and I know there is very strong feeling, both in the House and Senate, that two fingers are inadequate.

I would just like to have your comment here on the record for why we did it that way. I know we were trying to rush and do it, but now it looks to me like we are going to have to go back and redo this. And we missed the opportunity to get these 600,000 people the first time.

Mr. HUTCHINSON. Thank you.

And the two fingerprints are sufficient for identification purposes, that you confirm their identity, which is the first responsibility. If there is an identity question, they are referred to secondary, where the multiple prints can be taken to have a more ac-

curate check against the FBI databases, to make sure there is not any confusion.

And so it is a limited purpose of identity with the two fingerprints.

And the State Department is a key in this, that they have invested in the fingerprint scans that they are deploying as to whether down the road there has to be additional fingerprints that are added. But that is a question of our systems development, a question of resources with the State Department.

But this is an immediate added security value for a very low-cost amount. I think it was like \$1 million for these and all of our ports of entry. We were immediately able to get the security benefit, and then we will see where the system has to gravitate down the road.

Mr. DICKS. Ambassador Harty, what do you think? I mean, would we be better off to do all ten or eight fingerprints at first and get this thing right?

Ms. HARTY. Sir, thank you for the question.

I would like to agree with Under Secretary Hutchinson that in the first instance, we were in fact very much consumed with getting the identity right, identifying a traveler, getting to the issue of document fraud and making sure that the people who showed up at ports of entry were the people we had seen overseas.

I am not an expert on this subject, but I know that there have been a number of studies done, and not all conclusive, that you can find a number of different entities out there, some who say eight or ten are better. Let me just say maybe that is not the case. I think what we have is a very strong desire at the beginning of the program to meet the congressional deadlines to get the identification in place.

Mr. DICKS. I think the deadlines are somewhat more created by the administration. The secretary said, "We will do it by a certain date."

I think we ought to make sure we are doing it right by a specific date. Because if we go to a two-finger system, and then we have to go back to a ten-finger system because we didn't get it right, that is a waste of a lot of money and effort, it seems to me. My view is we should have done it the more comprehensive way at first if there was any question about it.

And the issue is that you have got the IAFIS database at the FBI that is a ten-finger system. So, you are not going to have this relationship, according to the experts that I talked to.

I just wanted to bring that up, and hope you will take another look at it.

Ms. HARTY. Certainly, sir.

Mr. DICKS. We have talked about the southern border. The northern border is of concern to me, being from Washington State.

I noticed in the statistics that the CBP has assigned 9,539 border agents to the southern border compared with 990 on the 4,121-mile northern border. How do we explain the difference, here?

Mr. HUTCHINSON. Well, we have added 1,000 agents to the northern border, which is 1,000 increase. And obviously the northern border has not been a focus prior to the security lessons that we learned from 9/11.

So we are continuing to enhance that, but it is a challenge on both the northern and the southern border.

Mr. DICKS. You know, I usually don't quote from The Washington Times, but The Washington Times, in December, did a very comprehensive article about the problems and challenges we face in Canada. One thing it said was that since 1995, at least 15 persons identified to federal authorities as known terrorists have been caught crossing the border from Canada. Two in Blaine, in Washington State.

And also that there are Al Qaida sleeper cells, even today, in Canada.

Are we talking to the Canadians about trying to get them to strengthen their system? We may make this enormous effort here in the United States, but if these people can enter into Canada, be in sleeper cells, come across the border, that this may become—we have already seen with Ressam that this has happened once before.

Thank goodness for a great agent who found this person up in Port Angeles in my district, or we may have had a major incident at the Los Angeles airport or in Seattle.

What are we doing with the Canadians to try to get them to cooperate with us on this?

Mr. HUTCHINSON. You are absolutely correct that there are vulnerabilities in the northern border that have to be addressed.

We are working with the Canadian counterparts. We have our integrated border enforcement teams, which the Royal Canadian Mounted Police and our Border Patrol are working together. We have moved air assets to the northern border, including the building of new facilities to accommodate those air assets. We have put new technology there, surveillance equipment, sensors.

It is a vast, open border. There is a tradition of openness there that we have had to take a much closer look at and enhance the security on since 9/11.

We will continue to do that, but we are working closely with the Canadian government.

Mr. DICKS. Are they doing a better job of trying to screen people—do what we are trying to do in terms of keeping these terrorists out of their country?

Mr. HUTCHINSON. They are. We are wanting them to do some additional things, working with them. Obviously if you get to North America, whether it is Canada or the United States, and you have an open border, you can traverse back and forth.

And so, we need to on the front end have a common policy on who gets into North America. That would enhance our security. And we are working with them and with the State Department to accomplish.

Mr. DICKS. I urge you to keep that up.

Now, let me ask you one more thing: When they go across the border, you have trucks, you have cars. I know if you slowed it down, you would have a backup for miles and miles and miles.

What kind of equipment are we using to scan these trucks and cars? Do you know what we are using?

Mr. HUTCHINSON. Each inspector has their personal radiation equipment. We also have non-intrusive inspection equipment, and

then we have radiation portals for the larger vehicles that go through.

So a variety of different technologies that will accomplish the inspection, both radiation detection as well as X-ray examination to detect any anomalies in the shipment.

Mr. DICKS. Thank you, Madam Chairman.

Ms. GRANGER. Thank you very much.

I have no additional questions.

I will call on Chairman Cox.

Do you have additional questions?

Mr. COX. Madam Vice Chairman, I have a great many further questions for our panel. I know we have another panel. And I would yield to the vice chairwoman to excuse our witnesses, provided that we might have the opportunity to follow up with written questions.

Ms. GRANGER. Thank you.

Representative Turner, do you have additional questions?

Five minutes.

Mr. TURNER. I just have one follow up.

Mr. Secretary, you made the comment about the inspections going on at our land borders. You mentioned that we have radiation detection portals. You mentioned the hand-held devices.

Where do we have radiation portals that you were referring to on our land borders?

Mr. HUTCHINSON. Well, if you are looking at the cargo shipments, the trucks, we have portals in a whole host of places on the northern and the southern border. I would be happy to provide you with a precise list as to where they are.

Mr. TURNER. And what is the criteria for utilizing them?

Mr. HUTCHINSON. Well, if, for example, a personal radiation detector triggered, indicating there was some radiation being admitted, then if it was a truck, it would be brought through for closer examination in the larger portal.

In other places, where we have perhaps more equipment in place, they are automatically run through the portal.

I was at a land point of entry on the northern border in which every truck vehicle was being passed through the radiation portal.

Mr. TURNER. Well, in regard to radiation portals, I know you have deployed some of those at seaports. And we don't yet have enough at our seaports to really screen all the cargo containers. And I was wondering if you have a plan and a cost estimate of what it is going to take to have radiation portals at all of our border crossings, including the seaports and the land crossings?

Is this a goal of the department? Could you provide us with a number as to what it would cost to have that kind of capability?

Mr. HUTCHINSON. It is a goal. And I would be happy to provide you with where they are deployed at the present time and the schedule this year for deploying additional portals at our land-and our sea-ports.

Mr. TURNER. Well, do you consider it an appropriate, pressing, and urgent need to have the capability at both seaports and land crossings, to be able to have sufficient radiation detection portals so that all cargo containers coming across the land borders and into our seaports could be screened for radiation?



Mr. HUTCHINSON. I would underscore the word "could be screened." It is important. And we consider it a high priority to make sure this equipment is deployed. Obviously, we are not deploying it in sufficient quantity, nor do I think we should, that every container coming through the seaport would go through that portal.

Those that we identify for further inspection or at risk should go through there, and do go through there. And sufficient portals should be deployed for that purpose.

Mr. TURNER. How much money is requested in your most recent budget request for radiation portals?

Mr. HUTCHINSON. The budget will be announced on I believe next Monday. And we will be able to provide that figure for 2005.

Mr. TURNER. You won't give me a little advance briefing here, then?

Mr. HUTCHINSON. No, but I will go back and look it up.

Mr. TURNER. Well, let me say this: I heard you state that you weren't—and I understand this is the department's position, that we do not need to screen all cargo containers for radiation. And I really think you ought to rethink that position.

I have been told—and I would invite you to check it out—that we could have sufficient radiation detection portals at all seaports, sufficient to allow all cargo containers coming in on ships to be run through them and checked for radiation for \$75 million. Not a big price tag, if accurate.

And if you go down to the port of Norfolk, you can see where they on their own, with their own money, have purchased sufficient radiation portals to check for radiation. And as you know, these hand-held devices that these folks have, they are not really so much for screening as for really measuring the dosage that they may be exposed to.

So I would urge you to reconsider that and to look at your budget request and see if perhaps we couldn't get that taken care of.

Are there deployed at any of our ports, particularly our land crossings—

Ms. GRANGER. Mr. Turner, you have gone over your five minutes.

Mr. TURNER. All right, I am sorry.

I will ask you again.

Mr. HUTCHINSON. Thank you for those comments. And we will continue to evaluate. As the technology improves, it might be more cost-effective, and we can do more.

Ms. GRANGER. Thank you.

The chair now recognizes Representative Shadegg for five minutes.

Mr. SHADEGG. Madam Chairman, I know you want to move on to the next panel, so I will try to be as brief as I can.

Undersecretary Hutchinson, I know the deadline for the 50 highest volume land borders is at the end of this year. As I understand it, your goal is to have contracts in place with the private sector by May 1 to meet that deadline, is that correct?

Mr. HUTCHINSON. That's correct.

Mr. SHADEGG. I will just ask one question with two parts to it: One, can you briefly describe the challenges you face to implementing this program at those land borders? In my State of Ari-

zona, we have a number that will fall into that category, but some are very high volume crossings. Nogales is a hub of commerce on the southern border of Arizona.

What challenges do you face, number one?

And number two, what are you doing to work with the community to give them advance knowledge and kind of prepare them for the shock of the new program, so that there is not a negative reaction?

Mr. HUTCHINSON. Challenges and what we are doing to prepare.

First of all, a good communication plan. We want to spend a lot of time on the border, working with the communities and bringing them in the process as we develop these solutions.

And I hope that there is some level of confidence—the fact that we are trying to do this in the air and sea ports without backlogs will indicate we have the same intent on the land borders.

This illustrates some of the vastness of the problem. We have the traveler population, air, sea and land, and you see the land categories which we will face on the borders, you have citizens, 120 million; permanent residents, 75 million; visa exempt, which are primarily Canadians, 52 million; visa waiver, 1.8 million; regular visas, 4.5 million, but the border crossing card, 104 million. And you compare that to the airports and seaports, you are looking at 79 million versus 358 million.

So the challenge is multifold, compared to what we have just done.

And with great respect to Congressman Turner who asked about the mitigation strategy, we almost have to have a mitigation strategy when it comes to land borders.

You know, we cannot just simply clog it. And so, we have to implement this in a way that gives us a measure of security, that has some flexibility to it but still is consistent with the commerce that needs to flow through.

That is our challenge. We are looking at new technology. First of all, in the 2004 spin plan, we are looking at having the same solution that we have at our airports at our land borders for regular visa holders that travel through.

And so, they would go to secondary inspection, be enrolled in US-VISIT, just as they are now, but it doesn't clog the border. That's 4.5 million visitors.

Visa waiver, obviously they go to our secondary inspection now as well.

The big challenge is the border crossing card, which, if they are used as a visa, would go to secondary inspection, can be enrolled, but if they are just used for the crossing card purposes, you are looking at 104 million people going through.

We are looking at R.F.-technology. We are looking at different technologies that can accomplish some objectives of what we want to do, consistent with the congressional mandate. We are looking forward to working with this committee to meet that challenge that we have.

Mr. SHADEGG. I wish you luck.

Mr. HUTCHINSON. Thank you.

Mr. SHADEGG. I yield back, Madam Chairman.

Ms. GRANGER. The Chair now recognizes Representative Sanchez for five minutes.

Ms. Loretta SANCHEZ of California. Thank you, Madam Chair.

I just have a couple of questions—more that I will put in—but I am really concerned about the accuracy and the lack of connectedness of the different databases that we are searching to find these people to check against them, to see if they are bad people or good people.

I have been told that the databases contain a lot of errors, conflicting information. And I guess my question is to the policy or lack of policy that allows these problems to be addressed, the erroneous data to be changed.

For example, let's say that I am mistaken for another Loretta Sanchez who has a warrant out for her arrest. And I go through the airport. And I have to sit down. I have to talk to the CBP officer. I prove to him that in fact I am the congresswoman that is Loretta Sanchez, not the fugitive. And he sees that.

But there is no procedure in place right now from what I am told to be able to change that in the database.

Which means that the next time I come to the airport, I get treated in the same way, I get pulled aside as the bad Loretta Sanchez. I have to sit down. I have to explain to this guy or lady that, you know, that is just not the case.

So I guess my question goes to how are we integrating these databases? What kind of policies do we have to ensure accuracy and to eliminate mistaken identity problems, for example, because, you know, it is not only a waste of my time, but it is a waste of valuable resources in these officers on the front line.

Ms. HARTY. While I hesitate to speak for my colleague of the Terrorist Screening Center, I did sit with her two days ago at another hearing, so I would just like to give you in part her answer and in part my own.

On the overseas side, we do often have that, as Undersecretary Hutchinson alluded to earlier, where there might be another person with your same name out there. We see that somewhat regularly. That is why we have a very strong emphasis on getting not only the name of the person, but a date and place of birth, so that we can make sure that we are talking about the right person.

We have procedures at State to remove somebody from the system if in fact that information is erroneous.

On the part of my colleague from TSC, she mentioned exactly the same thing, that one of the things of course they are very interested in is facilitating legitimate travel by legitimate people. That, in fact, she said, they do have a procedure and have employed it—they haven't been up and running very long, but have employed it on a number of occasions already, specifically to make sure that honest, decent people who are not the subject of a hit should not in fact have to fear traveling through a U.S. port of entry.

You might want to add something to that, but that is, in fact, what I heard her say just the other day.

Mr. HUTCHINSON. We have processes in place as well that someone who is mistakenly identified can be removed.

But the problem you have expressed very well: If we have information—intelligence that is received—that Asa Hutchinson is plan-

ning a terrorist attack. And that is intelligence that we get, perhaps it is electronic, maybe it is a human source. And that is all we have. What do we do with that one name?

Now, I think the public would expect that that name would be entered so we can be on the lookout for an Asa Hutchinson. But there is not a date of birth with it. There is not an address with it.

And so, sometimes you have bits of information. Sometimes it is more limited. And so, we have—you are right—policy questions. But we also have some huge responsibilities when we have little bits of information to share it with the right people.

Ms. Loretta SANCHEZ of California. You know, it really is a problem. And even when you have the date of birth, for example, because there is, in fact, another Lorena Sanchez that was born on the same day, that lives in the same city that I live in. So, you know, constantly confused.

And so, if we do it there, I can just imagine doing it at the airport.

But more importantly, I represent the largest Vietnamese population outside of Vietnam in the world. They all have the same name, practically. And I don't know how that happens. Maybe it was when everybody was being processed, it was easier to give them Tran or Wen, rather than, you know, what their name was. Or maybe it is all the same family.

But they have the same names over and over and over again. And this is one of the issues that they bring up to me.

As well as a very large Arab-American community in my area, largest in California, that, you know, their names are butchered all over the place.

So if it even looks close to something, they are being stopped at LAX or other airports.

Mr. HUTCHINSON. And you are right. And so that is why we want to have identifying information for the passengers who fly that can distinguish them from just simply a name on a terrorist list. And that is why we are developing our CAPS II system, working with the airlines and the European Commission to get the passenger name record data that will eliminate—help reduce—the problem that you articulated.

Ms. Loretta SANCHEZ of California. And the other problem, I would say, is just that the—just because one data base has the new Loretta Sanchez or don't get this Loretta Sanchez, it doesn't seem that a lot of the databases are also being updated at the same time.

Thank you, Madam.

Ms. GRANGER. Thank you very much. That concludes the testimony and questions for this panel. We thank both of our witnesses very much. And the second panel can come to the witness table now.

We are expecting a vote, probably between 1:45 and 2:00, we understand.

Let me clarify, for the record, there was a question from Mr. Dicks concerning the two prints in the IAFIS system that comes from the FBI. And when the two prints are made, they can still match with two points on the IAFIS system. If that is true, after that match is made, that there is an indication that there could be

a match because there are only two prints compared to 10 prints, there still could be a match on the two prints.

Thank you.

I thank you for being here. We will now begin testimony from Mr. May, from the Air Transport Association; followed by Ms. Campbell Walker from the El Paso Foreign Trade Association; and then by Mr. Carlton with the International Biometrics Group.

Mr. May, we have received your written testimony, and ask that you briefly summarize in five minutes your statement.

**STATEMENT OF JAMES MAY, PRESIDENT AND CEO, AIR  
TRANSPORT ASSOCIATION**

Mr. MAY. Thank you, Madam Chairman. And since over the years I have learned not to put you to sleep by trying to read, I will just do that very thing.

Number one, we think the US-VISIT program is working well. It is something that we had the pleasure of doing a test based on at the Atlanta Hartsfield airport with Delta Air Lines, as you are well aware.

We were very concerned that it would in the final analysis significantly delay the process of passengers coming into the United States. We were concerned that it would delay connecting flights and so forth.

To date, it has worked well. The capture of the biometric information has worked well. We are looking at probably 10 to 15 minutes on average on waits in there and 20 at the outside. There are certain longer periods of time, but for the most part the system is working well as it gets rolled out across the country, with 115-some odd points of capture.

We have roughly 17.5 million passengers that we carry that are arguably subject to the US-VISIT program, so it has a real potential impact on us. So far, the entry program is working well.

Exit, as you are well aware, is being tested at BWI. It is a far more challenging environment going out than it is coming in. To date, we are using DHS is using kiosks. They are set up inside the security perimeter.

I think there are a couple of issues that we have raised with DHS on the workability of those projects. The first is, I think they need to do a little bit better job of signage. The second is that they probably need to think about having sort of an audio component to those kiosks, conceivable even multi-lingual.

I think they are using one employee per five right now, and they may have to kick that up a little bit along the way.

The goal for us on the exit is to make sure, as was the case on the entrance, that we don't turn airline personnel into immigration agents, number one; number two, we don't have a system that ends up costing the airlines an additional millions of dollars in security costs which we can ill afford—we are already spending \$3 billion a year on unreimbursed security costs; and to have it be a process that works through quickly, so as not to delay unduly our passengers and to have the facilitation process work well.

To date, we are pleased with the cooperation we are getting from DHS and the State Department. We think the program is working

well from our perspective. I am happy to answer any questions you may have.

[The statement of Mr. May follows:]

PREPARED STATEMENT OF JAMES C. MAY

Mr. Chairman and members of the Subcommittee, my name is James C. May and I am President and CEO of the Air Transport Association of America (ATA). ATA is the trade association for leading U.S. airlines. Our members transport over 95 percent of all the passenger and cargo traffic in the United States. Thank you for inviting me to appear before you today to discuss the United States' Visitor and Immigrant Status Indicator Technology Program—more commonly known as "US-VISIT".

Congress mandated the US-VISIT program in the Enhanced Border Security and Visa Reform Act of 2002. This statute established the requirement that all foreign national visa holders be photographed and fingerprinted upon arrival and prior to departure from the United States. The Department of Homeland Security's (DHS) broad Congressional mandate to create an integrated, automated entry/exit system, recording the arrival and departure of travelers is both ambitious and important. Because the airline industry transports 51 million international passengers each year, it is essential to our industry, and our passengers, that this program improve overall border management while further enhancing our Nation's security. We support DHS in its efforts to create and implement US-VISIT.

While the airline industry is pleased to work with DHS and our national security leaders to participate in these programs, we believe it is critical that DHS adhere to the planned schedule for deploying US-VISIT at the northern and southern land borders. This is especially important since airline passengers make up only 4 percent of all U.S. entrants subject to US-VISIT requirements while land borders make up 37 percent of such visitors. Until US-VISIT is deployed nationwide at all border crossings, the system will not be effective in enhancing our national security.

We compliment the Department of Homeland Security, and specifically, Undersecretary Hutchinson and the Office of Border and Transportation Security, the US-VISIT Program Office, and the Bureau of Customs and Border Protection (CBP), for working together to carefully and completely plan for a successful implementation. Their attention to careful planning, in full consultation with all interested parties has been first rate. We look forward to continuing this cooperative approach.

First, I will offer some lessons learned and observations about the entry portion of US-VISIT. Second, I will address on-going concerns with the exit pilot program. Finally, I will briefly mention some overarching screening program concerns.

**US-VISIT—ENTRY**

As you know, the pilot for entry was conducted at Atlanta's Hartsfield/Jackson International Airport, in partnership with Delta Air Lines. We believe it was an excellent opportunity to test the process both from the government and the industry perspective. The pilot allowed everyone involved to become familiar with the newly deployed equipment and to provide input at the implementation phase.

In the short time that the US-VISIT entry process has been operational, the airlines have been very pleased with its smooth operation. Airlines believe that a key to the initial success of the US-VISIT entry process can be attributed to the increased federal inspectors associated with the program.

We initially were wary of the decision to place the entry process at the primary immigration inspection stanchions due to concerns over staffing levels. Ensuring an adequate number of federal inspectors, whether legacy INS or legacy Customs, has been a longstanding and significant concern of the airline industry. If not adequately staffed, such placement in the current configuration of most airports could not accommodate the inevitable long lines due to the US-VISIT processing requirements. In addition, these long lines not only delay our customers and but also could possibly delay airport operations.

This DHS worked with us to address this staffing level issue; therefore, we are satisfied that the US-VISIT entry process has not inhibited or lengthened the overall passenger processing times as we had feared.

**US-VISIT—EXIT**

As with the entry process, we appreciate the open communications we have had, and are having, with DHS on the development of the exit portion of the program. As you are aware, a kiosk approach is being piloted at Baltimore/Washington International Airport (BWI). This approach versus other possibilities—for example, processing eligible US-VISIT passengers at the TSA checkpoint—remains an open question.

Given the opportunity to evaluate the exit pilot thus far, we have some remaining issues we would like to see addressed. First, due to the voluntary nature of the current pilot, we are concerned that the underlying purpose of US-VISIT, monitoring both the entry and exit of foreign nationals will not be met. Without government enforcement, the airline industry could be put in a position of transporting an ineligible passenger to the United States only to have to absorb the expense of returning that passenger back to his originating airport.

Second, at the BWI pilot, the kiosks are located immediately beyond the Transportation Security Administration's (TSA) checkpoint. US-VISIT has placed signage both within the TSA checkpoint and immediately beyond the checkpoint, directing passengers to the kiosks. We believe that the signage is insufficient. At the TSA checkpoint, passengers are too busy concentrating on keeping an eye on their belongings—coats, shoes, jewelry, etc. to notice the signage.

Third, the kiosks are silent. Currently, the system relies on a touch screen with icons to direct the passenger through the process. From our observation, this is inadequate. More work remains to be done to make the process easily understood and user friendly, particularly for non-English speaking travelers.

As we continue through this pilot program, we understand that the Office of Management and Budget has directed DHS to explore alternatives to the kiosk system in capturing the biometric data. The airline industry asks to participate in any discussions on this topic. As you are aware, ATA opposes any requirement that airline staff collect the biometric data, either at the check-in counters or at the departure gates. Airline personnel should not be used as quasi-immigration officers.

#### **OTHER SCREENING ISSUES**

We are aware that DHS is developing other passenger screening capabilities, most specifically the CAPPS II program that may be adapted to also readily identify US-VISIT exiting passengers. We would urge that, as these programs develop, consideration be given to combining screening and exit processing to better meet the needs of the traveling public and continue to enhance vital security needs. We believe that the nation's interests will best be served by a seamless, fully integrated approach to passenger processing and screening. When fully implemented the US-VISIT entry/exit program must be enforceable and integrated into any new technologies and programs under development at the DHS.

In conclusion, I want to reiterate our support for the comprehensive and efficient implementation of the US-VISIT entry program. We look forward to working with both the Congress and the DHS to fine tune the processes and develop an exit policy that meets the requirements of the law, but does not discourage travel to the United States.

Mr. Chairman, thank you again for inviting me to testify on a very important component to the nation's overall security policy. I will be happy to answer any questions that you may have.

Ms. GRANGER. Ms. Campbell Walker?

#### **STATEMENT OF KATHLEEN CAMPBELL WALKER, A MEMBER OF THE BOARD OF DIRECTORS OF THE EL PASO FOREIGN TRADE ASSOCIATION AND A MEMBER OF THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION**

Ms. CAMPBELL WALKER. Madam Chairperson and distinguished members of this subcommittee, thank you very much for the opportunity to be presenting testimony before you today.

I am currently on the executive committee of the American Immigration Lawyers Association, an association of over 8,500 lawyers representing thousands of individuals who are trying to comply with our immigration laws.

And in addition to that, since 1985, I have been a member of the board of the El Paso Foreign Trade Association, now known as the foreign trade association, on which we worked for four years on establishing the first dedicated commuter lane in the State of Texas. And in addition to that, we also worked on the project, just recently implemented and introduced by Secretary Ridge, the new FAST lane, concerning commercial traffic.

The history that I am trying to bring is one of cooperation and work with federal, state and local officials, trying to create realistic solutions when we are talking about where the rubber hits the road. And that is where I am down in El Paso for the past 18 years.

I have got to say that we are extremely concerned that unless a deadline is pushed regarding implementation of the 50 busiest land ports, which will include El Paso and many others in the State of Texas and elsewhere, that we will have total gridlock.

And I find it interesting in the analysis of the success so far of US-VISIT. I would like to just make a few points. But I am trying to make constructive comments, because if we don't understand the reality of the process, we cannot give the process the attributes and enhancements that it needs to accomplish its objectives.

So I hope that these comments are taken in that light.

US-VISIT is supposed to be an exit and an entry system. Obviously, as of January 5th, we don't have the exit part. And if we did have the exit part, we would have a serious problem.

On the entry segment, as well, the Ahern memo you referenced earlier is a logical memo, based on the realities that we have economic trade interdependence here, and our trade is paying for our security. So we have got to manage that balance.

I think that it is an indicator that the memo was issued that indeed additional resources are necessary to properly implement. And that is all it states, a truism that needs to be addressed.

From the perspective of land ports, for me the easiest way for me to take a quick snapshot of what we are dealing with is for hopefully those who haven't visited our land borders down South, we hope that you will come visit and be our guests.

But on a different note, where do we stand right now on our land borders, at our land ports?

First of all, we are not addressing that obvious point that was raised earlier in testimony, that we don't have control of our borders. We still have migration flows between our ports.

That is an issue that hopefully we will address with comprehensive immigration reform legislation.

But on a different note about what are we dealing with right now, we have pedestrians, a huge volume, coming through our ports. In addition to that, commercial vehicles and passengers vehicles.

We don't even have a basis IBIS check that takes a few seconds being conducted on 100 percent of our pedestrians. There is a 40 percent minimum requirement.

We don't have mandatory checks at all at that level being conducted at our passenger vehicle lanes. The reason is that they are lucky to have these mobile tech units in which they are able to access IBIS if they type it in.

We don't have time to be able to actually get people through and indeed access that information on everybody with what we have in place right now.

And we cannot get it there by December 31st.

Another point is just flat infrastructure, land and people. We don't have a spot for exit control at all of our ports. And recently someone talked about they are going to buy 1,000 scanners. And



1,000 scanners to scan these biometric documents, I am sorry, doesn't even begin to address the situation.

At one point in time they were saying if we got one scanner a port, we would be doing great. Well, at one of our ports, we have like 10 passenger vehicle lanes, 10 pedestrian, and five or six commercial. So that is just at one port. How does one scanner deal with that issue?

So what I am concerned about is, if we are going to make the system work, let's assess it realistically and give it the tools that it needs to be a success.

And I am not going to sit here and denigrate the efforts made by the Department of Homeland Security and the Department of State. Laudable efforts. Amazing work so far.

But there is a reality check that needs to be made before we end up lulling ourselves into a false sense of security. And I think that is the path we are going upon.

As far as the biometric check issue, I hope that someone will ask me a really hard question later on, really about that IDENT point, because if you look at your normal inspector—and I have got to shut up very quickly, the normal inspector does not have access to something called CLAIMS 3 regarding immigration status. The normal inspector doesn't have access to the CCD database they were talking about on the primary inspection line.

So I would just like those issues described and discussed later.

Thank you for the opportunity.

[The statement of Ms. Campbell Walker follows:]

PREPARED STATEMENT OF KATHLEEN CAMPBELL WALKER

Mr. Chairman and distinguished Members of the Subcommittee, I am Kathleen Campbell Walker, Treasurer of the American Immigration Lawyers Association (AILA). I am honored to be here today representing two organizations, AILA and the Foreign Trade Association of the Paso del Norte region.

AILA is the immigration bar association with more than 8,500 members who practice immigration law. Founded in 1946, the association is a nonpartisan, nonprofit organization and is an affiliated organization of the American Bar Association (ABA). AILA members represent tens of thousands of: U.S. families who have applied for permanent residence for their spouses, children, and other close relatives to lawfully enter and reside in the United States; U.S. businesses, universities, colleges, and industries that sponsor highly skilled foreign professionals seeking to enter the United States on a temporary basis or, having proved the unavailability of U.S. workers when required, on a permanent basis; and healthcare workers, asylum seekers, often on a pro bono basis, as well as athletes, entertainers, exchange visitors, artists, and foreign students. AILA members have assisted in contributing ideas for increased port of entry inspection efficiencies and continue to work through their national liaison activities with federal agencies engaged in the administration and enforcement of our immigration laws to identify ways to improve adjudicative processes and procedures.

The Foreign Trade Association of the Paso del Norte region was originally incorporated in 1985 as the El Paso Foreign Trade Association. The mission of the Foreign Trade Association is to enhance and advance bilateral trade in the Paso del Norte region, which includes El Paso, Texas, southern New Mexico, and the northern part of the State of Chihuahua in Mexico, which includes Ciudad Juarez. The Association's membership includes *maquiladora* executives and service industry leaders from both sides of the U.S.-Mexico border. The Association has a history of working with federal, state, and local officials on both sides of the border to implement projects for the improvement of cross-border trade and commerce. For example, the Association spearheaded a four-year project partially funded by the El Paso community to construct the first dedicated commuter lane in Texas using Secure Electronic Network for Travelers Rapid Inspection (SENTRI) technology. It also helped to implement the first FAST lane on the southern border for commercial traffic in the past few months.

Both organizations appreciate the opportunity to testify today on “Integrity and Security at the Border: The US-VISIT Program.” While our organizations differ in many respects, we both strongly hold the view that it is vitally important to enhance our nation’s security in a way which balances our need for enhanced security with our economic dependence on the international and the cross-border flow of people and goods, which helps to pay for our national security.

I am here today to testify on the US-VISIT program and to offer suggestions to help potentially ensure that this program works efficiently and effectively, so that we can achieve a viable inspection process and enhance security at our borders. Living in a post September 11 environment demands that we develop new programs that balance a recognition of the fact that our nation is inextricably linked to the world around us with the need to protect ourselves from those who would do us harm. We all have much to learn from our past mistakes as well as our past successes. I hope this testimony contributes to a productive discussion.

**What is US-VISIT?** The United States Visitor and Immigrant Status Indicator Technology program (US-VISIT) is the new automated entry/exit system that is being implemented at our nation’s ports of entry. It is designed to collect and share information on foreign nationals traveling to the United States (including travel details and biometric identifiers), confirm identity, measure security risks, and assess the legitimacy of travel in an effort to determine who is welcome and who is not, and help speed traffic flow. The overall plan for the implementation of US-VISIT calls for the collection of personal data, photos and fingerprints, at U.S. consular offices abroad and at our ports of entry, as well as broad database and information sharing. The system also is intended to track changes in foreign nationals’ immigration status and make updates and adjustments accordingly. Ultimately, the Department of Homeland Security (DHS) plans to make available information captured through US-VISIT at all ports of entry and throughout the entire immigration enforcement system.

US-VISIT is the latest manifestation of an earlier program, Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104–208) (IIRAIRA). The concept of an entry/exit system to monitor entries at and exits from our nation’s ports of entry was first articulated in Section 110, which created an entry/exit system that would have applied to all non-U.S. citizens who entered or exited the United States at any port of entry to identify visa overstayers. Although subsequent laws altered both the deadline and the parameters of the Section 110 entry/exit program, the general framework of Section 110 entry/exit remains the same today. [The Congressional deadline for the entry/exit system was delayed by P.L. 105–259 to October 15, 1998. In P.L. 105–277, the deadline was pushed back to March 30, 2001, for land ports of entry and seaports. This law did not affect the deadline for implementation at airports.]

The Data Management Improvement Act of 2000 (P.L. 106–215) (DMIA) amended Section 110 to require that the entry/exit system use data that already was being collected from foreign nationals and prohibited the Immigration and Naturalization Service (INS) from imposing additional entry or exit documentary or data collection requirements for purposes of the entry/exit system. The act mandated the development of a searchable centralized database and staggered the entry/exit implementation deadlines into three very difficult to achieve time frames as follows:

- Airports and Seaports—December 31, 2003
- Top 50 high traffic land border ports—December 31, 2004
- Remaining implementation for all other ports—December 31, 2005

While the system set forth by Section 110, and amended by the DMIA, must record entry and exit for foreign nationals without establishing additional documentary or data collection requirements for the purposes of the entry/exit system, the laws do not prohibit DHS from developing new documentary or data collection requirements to implement provisions contained in other laws. Certainly, the mandate of US-VISIT—to enroll applicants for visas and admission to the U.S. via the collection of two print fingerprints and a digitized photograph—is beyond current procedures. The potential remains for DHS to include within US-VISIT categories of foreign nationals now exempt from program participation, including legal permanent residents, Canadian citizens, and Visa Waiver Program participants.

In the post-9/11 environment, Congress took another look at the Section 110 entry/exit system in the USA PATRIOT Act of 2001 (P.L. 107–56) (PATRIOT Act). The law encouraged the development of the entry/exit system with “all deliberate speed” and as “expeditiously as practicable,” and established a taskforce made up of governmental and private industry representatives to review the establishment of an entry/exit system. The law also mandated that the entry/exit system use bio-

metric technology and requires tamper-resistant documents readable at all ports of entry.

With the passage of the Enhanced Border Security and Visa Entry Reform Act of 2002 (P.L. 107-173) (Enhanced Border Security Act), Congress addressed the entry/exit system as a program that balances security with the economic realities of our busy ports. To strike this balance, the act mandated that the entry/exit program utilize technologies that facilitate the efficient flow of commerce and travel, including interoperable data bases that aid in the determination of who should be allowed entry into the U.S. Congress here clearly recognized the need to balance improved border security with our nation's economic security as it relates to the flow of people and goods through our nation's ports of entry.

#### **The First Phase of US-VISIT**

Testing for the first phase of the US-VISIT program's implementation at airports and seaports began in the Hartsfield International Airport in Atlanta during November 2003. DHS reported that during the pilot testing phase, over 140,000 individuals were enrolled in US-VISIT and 21 individuals were intercepted upon entry. DHS has not indicated whether these individuals would have been admitted to the U.S. if the typical pre-VISIT inspections process had been used.

On January 5th, the first phase of US-VISIT became operational at 14 seaports and 115 airports nationwide. DHS explained the five-day delay in implementation (the program was originally set to begin on December 31, 2003) as an effort to avoid disrupting holiday travel. This delay, however, was more than a magnanimous overture, because the first part of the year is traditionally a slow travel season. Implementing US-VISIT while travel is light has led to reports that US-VISIT's procedures do not cause appreciable delays. US-VISIT, as currently implemented at our ports of entry, does not involve any biometric security check prior to admission. And, subsequent applications for admission by US-VISIT enrollees will only require a biometric check to verify the identity of the enrolled foreign national.

US-VISIT currently is set-up so that nonimmigrant visa holders applying for admission to the U.S. through one of the US-VISIT designated airports or seaports will undergo the standard inspection process and simultaneously will be enrolled in the US-VISIT system. If these individuals leave through a port with US-VISIT exit capabilities (of which there currently is only one airport and one seaport), these travelers must comply with US-VISIT exit procedures upon their departure from the U.S. Unfortunately, such procedures are still sketchy at best and the consequences for failure to comply can be severe, according to the US-VISIT interim final implementing regulations published at 69 *Fed. Reg.* 467-481.

#### **Enrollment at the Ports of Entry under US-VISIT**

During the first phase of US-VISIT's implementation, only nonimmigrant visa holders who enter the U.S. through an air or seaport that has US-VISIT capability will be enrolled in the program. The first time DHS enrolls a traveler into US-VISIT at a port, the individual's travel documents will be scanned, a digital photo and inkless fingerprints of both index fingers will be taken, and the individual's name will be checked against the Interagency Border Inspection Service (IBIS) database and the wants and warrants section of the National Crime Information Center (NCIC) database. Both of these checks are text (not biometric) checks. IBIS contains certain terrorist watch list information from the TIPOFF database maintained by the Department of State (DOS).

The enrollment process is supposed to take about 10 to 15 seconds. The primary reason for the speed of this process is that the security check against the applicable biometric database, Automated Biometric Identification System (IDENT), occurs *after* the visa holder is admitted to the U.S. If DHS inspectors ran the IDENT checks during the admissions process, it would add about five minutes to every US-VISIT enrollment, thus generating such lengthy backlogs that the ports of entry would essentially shut down.

The IDENT database, is a legacy INS database based on the same two index prints as US-VISIT as well as a digitized photograph. The system was created in 1994 and widely deployed from 1997 to 1998. It originally contained a recidivist database and a lookout database including all foreign nationals apprehended by the INS. The DOS also maintains such a biometric database of all Mexican laser visa holders (formerly known as border crossing cardholders). These laser visa holders all were vetted through an IDENT check. Except for in the US-VISIT context, the IDENT checks at ports of entry currently always occur during secondary and not primary inspection, where the time required to process information through IDENT is less of a concern.

Once the visa holder is enrolled in US-VISIT, his or her arrival information will be stored in the IDENT biometric database. Therefore, the information for appli-

cants for admission under US-VISIT with no criminal record or apprehension record with legacy INS or DHS are contained in the same database as the individuals for whom DHS is on the lookout. Such proximity between two distinct classes of foreign nationals will lead to confusion as inspectors will have to determine which individuals in IDENT are inadmissible to the U.S. and which have merely been enrolled in US-VISIT.

After visa holders enroll in US-VISIT, they still will have to provide fingerprints and have a digital photograph taken upon each application for entry to the U.S. Ideally, future enrollees will be able to swipe their biometric passport or visa, provide index fingerprints and photo, and be checked for identity against the US-VISIT database without further delay. This system would rely on US-VISIT to identify the enrollee and the usual text-based IBIS database check. Again, this procedure will not provide for a rapid biometric check against any criminal or other biometric watch list database.

#### ***Departure from the U.S. under US-VISIT***

Nonimmigrant visa holders are required to document their departure from the United States with US-VISIT **only** if they depart the U.S. through an air or seaport that has US-VISIT exit capability. Since January 5, 2004, US-VISIT only has exit capability at the Baltimore-Washington International (BWI) airport in Baltimore, Maryland and at the Miami seaport. However, DHS plans to expand US-VISIT exit capabilities to other ports of entry throughout 2004. At the moment, the exit stations for US-VISIT are self-service kiosks that closely resemble automated teller machines (ATMs). DHS has indicated that the kiosks will be located within the secure area of air and seaports. The Department also has stated that attendants will be assigned to monitor the kiosk area and offer assistance. In addition, DHS has announced that during 2004, it will test various exit methods, possibly including a hand-held device that will permit DHS personnel to register the departure of non-immigrant visa holders. One of the problems with such mobile units in the past has been lack of database connectivity. For example, at land ports, passenger vehicle lanes are usually not equipped with machine readable document scanners and mobile units with access to the TECS (Treasury Enforcement Communications System) database are used. Information has to be typed into the system and database access is limited. Upon departure, database review is again limited and not conducted against a criminal biometric database such as IDENT.

DHS considers exit registration mandatory for visa holders who depart from an air or seaport with US-VISIT exit capability. According to DHS, entry/exit information is constantly updated, and if a visitor overstays his or her authorized period of stay, US-VISIT will record the failure to depart. However, prior experience with databases designed to display the status of a foreign national indicated that inspectors are not often given access to these resources. Legacy INS experimented with the CLAIMS III database, which indicated the immigration status of foreign nationals. Unfortunately, the use of that database was frustrated by the fact that it was often down and not accessible. U.S. Citizenship and Immigration Services also maintains an internet-based on-line case status inquiry system which is not hooked up to inspection lanes, and inspectors have a difficult time utilizing this resource.

In addition to concerns about the usability of the US-VISIT database, there are serious concerns regarding the accuracy of the entry/exit information it contains. Inaccurate entry/exit data can have a serious impact on visa holders in a variety of ways since presence in or out of the U.S. is a critical issue for certain immigration benefits such as: eligibility in terms of overstay and removals; physical presence requirements for substantial presence determinations under our tax laws; legal permanent residence abandonment issues; time spent in the U.S. for naturalization purposes; etc.

Statements made by the DHS indicate that the Department appreciates the potential negative effects of recording exit information before the exit systems are fully operational and is considering a grace period regarding exit requirements. However, there has not been any confirmation of whether such a grace period exists, or whether failure to exit properly will result in a case-by-case review similar to the review permitted under Special Registration/National Security Entry/Exit Registration System (NSEERS).

#### ***U.S. Consulates' Role in US-VISIT***

Certain U.S. consulates have begun enrolling nonimmigrant and immigrant visa applicants into the US-VISIT system when processing the new biometric visa. Individuals enrolled at the consulates will still be "visited" upon their entry to the U.S., in that they will have their entry recorded via a biometric identity review. Currently, only certain consular posts are issuing biometric visas. However, the State Department is required to start issuing these visas at all 211 consular posts by Oc-

tober 26, 2004—an extremely ambitious deadline. As with port VISIT enrollment, two digital index finger prints and a photo are taken of visa applicants. Such biometric information, however, is checked against the IDENT database before visa issuance. Recently, at the U.S. Consulate in Vancouver, visa issuance times were increased from same day processing to 3-day processing due to the IDENT clearance. This delay is marking the end of same-day visa issuance and results in additional processing burdens on consular officers without the necessary staff increases to attend to such demands in a more timely manner. In addition, insufficient additional resources are apparently being allocated to address these database check delays at the source.

This IDENT requirement subsumes the personal appearance waiver policy announced in 2003 by DOS that required interviews of applicants between the ages of 16 and 60. Note that the IDENT check done by DOS applies in both the non-immigrant and immigrant visa application process. Currently, US-VISIT only applies to nonimmigrant visa holders.

In addition to these delays, consulates in Visa Waiver countries will likely suffer from additional delays due to an increased number of visa applicants. A congressional mandate in the PATRIOT Act requires Visa Waiver countries to issue tamper-proof machine-readable passports (MRPs) that include *biometric identifiers* by October 26, 2004. Individuals without a biometric MRP will have to apply for a visa at a U.S. consulate and will be subject to US-VISIT enrollment at the post. Their admission will then be recorded under US-VISIT procedures at the port of entry.

#### ***The Relationship between NSEERS and US-VISIT***

Special Registration/NSEERS at the ports of entry continues even after the launch of US-VISIT this January. Registration for NSEERS and enrollment for US-VISIT will continue to be separate processes until US-VISIT incorporates NSEERS. (Such incorporation is not anticipated until US-VISIT is fully developed.) Also, the two processes involve the intake of different levels of data. Thus, it is difficult to conceptualize an NSEERS process without a secondary inspection component, which is typically not involved in most US-VISIT admissions.

Persons subjected to call-in or port of entry Special Registration still must register their departure via NSEERS and must leave the U.S. through a designated NSEERS port of departure. According to preliminary reports, if US-VISIT has an operational exit kiosk at this port, and an individual already has registered his or her departure at that airport via NSEERS, the visa holder is not obligated to document his departure with US-VISIT. Thus, someone subject to NSEERS departure control will not need to register departure via both methodologies. There is, however, no written confirmation of this procedure. Considering that those who fail to comply with departure control rules under NSEERS may be subject to inadmissibility under INA section 212(a)(3)(A)(ii), many foreign nationals subject to both US-VISIT and NSEERS exit requirements (as well as their counsel) are not clear on how to ensure that their compliance is well documented in both systems. A public information program is critical to help those wishing to comply to do so.

#### **Expansion of US-VISIT to Land Ports of Entry**

Although DHS has not announced a timeframe for the implementation of new exit capabilities at our nation's airports and seaports, DHS plans on deploying biometric document readers to all air, sea, and land ports of entry by October 26, 2004. (Of course, the Mexican biometric laser visa for business and tourist admissions has been in existence for years, and yet such scanners have not been deployed to all ports.)

Implementing US-VISIT at our land ports of entry must take into account the complex realities of these ports. For instance, after September 11, 2001, when port officers attempted to subject all applicants for admission to IBIS (text based) database reviews, the resulting delays led to a modification of the policy. Such checks were not conducted at passenger and commercial vehicle lanes due to infrastructure limitations.

Unless Congress acts to delay the implementation of US-VISIT deadlines, DHS will be required to expand the entry/exit program to the top 50 high traffic land border ports by December 31, 2004 and to the remaining ports of entry by December 31, 2005. Expanding US-VISIT to land ports of entry raises a multitude of issues beyond those that arise at airports, and presents a host of infrastructure, staffing, and database challenges.

Border communities depend on the cross border flow of goods and people for their economic survival. For example, in 2001, \$22.7 billion in imports and \$16.1 billion in exports passed through El Paso's international bridges, constituting 19 percent of total trade through southern U.S. Customs Districts. Local El Paso economists estimate that between 15 and 30 percent of El Paso's retail sales are derived from

Mexican nationals. Just in time inventory management in cross-border manufacturing operations requires that Mexican and Canadian suppliers make their deliveries to the U.S. in predictable intervals. Delays in these cases can translate into disasters for these communities.

A June 1998 Senate Judiciary Committee report offers a compelling example of the challenges faced at our land border ports of entry. The report cites information from Dan Stamper, President of the Detroit International Bridge Co. Mr. Stamper noted that the Ambassador Bridge handles approximately 30,000 vehicle crossings per day. He calculated that, "assum[ing] the most efficient and remarkable entry and exit procedures in the world [that] will take only 30 seconds per vehicle, and making the equally optimistic assumption that only half of the vehicles have to go through procedures, that would amount to an extra 3,750 minutes of additional processing time each day." As he sagely pointed out, "There are only 1,440 minutes a day." Thus, the implementation of Section 110 would effectively close the border.

Unique infrastructure concerns also arise. The DMIA Task Force's Second Annual Report to Congress notes that in fiscal year 2002, there were 358 million land border entry inspections of people and 11 million inspections of commercial vehicles. There are over 300 ports of entry to the U.S. The report further states that as to current port infrastructure: 64 ports have less than 25 percent of the required space; 40 ports have between 25 and 50 percent of the required space; 13 ports have between 50 and 75 percent of the required space; and some existing ports lack "any land for expansion."

In addition, the high cost involved in developing an appropriate infrastructure also must be recognized. Along with the physical exits, these ports need adequate lanes, technologies, and trained officials, all of which costs, according to experts, more than \$10 billion dollars. Furthermore, in contrast to airport ports of entry, land ports must deal with pedestrians, passenger vehicle occupants, and commercial vehicle occupants. Our current admissions procedures at land ports sheds some light on the complex environment in which US-VISIT will supposedly be implemented.

**Pedestrians:** Currently, most pedestrian admissions are not recorded. When randomly checked, pedestrians are checked against IBIS (text-based) and the person and document are "eye-balled" for a match. The current minimum mandated IBIS check is 40 percent. The inspector may ask about the purpose of entry, where the person is from, or why he or she has been outside the U.S. This process often takes less than 5 seconds.

Occasionally, inspectors may check the person's visa against the DOS Consular Consolidated Database (CCD), which houses a copy of the visa the U.S. Consulate issued to that person. This additional check helps to target those who use other's documentation or fraudulent visas. Unfortunately, CCD access is not typically available in primary inspection. Currently, no review done at the primary inspection area verifies the identity of the person through a biometric check other than via the human eye.

In order for a biometric check to be done, the person is taken to a secondary inspection area where two fingerprints and a photograph are taken. The person's biographical and biometric information is run through the IDENT database, which then determines if this individual has violated immigration status. If merited, some applicants for admission may also be checked against the Integrated Automated Fingerprint Identification System (IAFIS), which is maintained by the FBI. This database compares all ten fingerprints of the person against its records. The IDENT checks typically take 5 minutes or less, and the IAFIS checks can take 15 to 30 minutes or more depending on a variety of factors.

Most foreign nationals are required to apply for an I-94 admission document and pay a \$6 fee upon application for entry to the U.S. The procedures surrounding issuing the I-94 card often result in delays. For example, there are often wait times of 30 minutes or more to be interviewed to obtain the I-94. After the interview process, the foreign national must go a separate location to pay the \$6 fee and receive the I-94. Too often, the official taking the fees is unavailable and applicants must wait for more than 15 minutes for an I-94 admission document to be issued. Currently, there is no exit inspection for pedestrians and usually no space or personnel to perform such an inspection.

**Passenger Vehicle Occupants:** Most passenger vehicle lane checks do not involve checking databases against the applicant's visa. Often, passenger vehicle inspectors will have access to Treasury Enforcement Communications System (TECS), which is a database managed by legacy Customs. It is possible to access IBIS via a mobile TECS unit, but the system is not amenable to scanning documents, so data must be typed in manually. In addition, to access CLAIMS III for immigration status information, the person must be sent to secondary inspection for further review. Therefore, if vehicle inspectors want to conduct further checks on applicants, the ap-

plicants for entry must park their car and walk in front of oncoming lanes of vehicles to get to the secondary inspection area.

Exit lanes are usually not available to allow for exit inspection. This fact is confirmed in the DMIA Task Force's First and Second Annual Report to Congress. Obviously, in the passenger vehicle context, even fewer IBIS checks are conducted than of pedestrians.

**Commercial Vehicle Occupants:** Commercial vehicle occupants basically go through the same process as passenger vehicle occupants. However, the commercial parking lot often is far away from the secondary inspection area and commercial vehicle occupants must be escorted to secondary by a port employee. Due to inadequate staffing, often no staff is available to perform this function and foreign nationals are often left waiting for long periods of time for further review.

The DHS has indicated that enrollment in US-VISIT at land ports of entry would occur in secondary inspection. [What DHS terms "secondary inspection" in this context, is the point at which foreign nationals obtain the I-94 admission card.] In order to speed processing of automobile traffic at the land ports, DHS is investigating the use of a radio frequency (RF) technology, which would transmit biographical information to the inspections officer. This technology would be similar to the SENTRI or NEXUS commuter programs implemented along the southern and northern border, respectively. However, RF technology does not resolve identity—and security-related database issues without either pre-clearance review of the applicant or at least text-based checks, as in airports upon admission. As noted by Jeane J. Kirkpatrick, Director—Council on Foreign Relations Independent Task Force on Homeland Security Imperatives, in her March 12, 2003 testimony before the U.S. Senate Judiciary Subcommittee on Border Security, Citizenship, and Immigration, *"There will never be enough inspection resources and it would prove self-defeating to subject every person, conveyance, and cargo to the same inspection regime."* She further notes that the, *"inspections processes at a port of entry must be an exercise in risk management."*

DHS issued a request for proposal (RFP) on November 30, 2003 for US-VISIT, and is now considering three primary bidders: Accenture, CSC and Lockheed-Martin. Award of a contract is expected by May 31, 2004.

#### **US-VISIT—A Tool to Enhance Our Security?**

Will US-VISIT help to enhance our security? While the jury is still out, serious questions need to be addressed as to the achievable mission of US-VISIT. A June 1998 Senate Judiciary Committee Report (Senate Judiciary Report 105•197 on S. 1360, Border Improvement and Immigration Act of 1998, June 1, 1998) makes the following apt comment:

*The Committee is keenly aware that implementing an automated entry/exit control system **has absolutely nothing to do with countering drug trafficking, and halting the entry of terrorists into the United States, or with any other illegal activity near the borders. An automated entry/exit control system will at best provide information only on those who have overstayed their visas. Even if a vast database of millions of visa overstayers could be developed, this database will in no way provide information as to which individuals might be engaging in other unlawful activity. It will accordingly provide no assistance in identifying terrorists, drug traffickers, or other criminals.*** (emphasis added)

With regard to tracking visa overstayers, the report further states:

*Even if a list of names and passport numbers of visa overstayers would be available, there would be no information as to where the individuals could be located. Even if there was information at the time of entry as to where an alien was expecting to go in the United States, it cannot be expected that 6 or more months later the alien would be at the same location. Particularly, if an alien were intending to overstay, it is likely that the alien would have provided only a temporary or false location as to where the alien was intending to go.*

AILA has previously testified that immigration can best contribute to our national security by enhancing our intelligence capacities. To that end, AILA strongly supported the Enhanced Border Security Act. The goal of this law is to make our borders the last line of defense. To that end, it includes the following provisions: authorizes increased funding for the DOS and INS, requires federal agencies to coordinate and share information needed to identify and intercept terrorists; encourages the use of new technologies by authorizing funds to improve technology and infrastructure at INS, the Customs Service, and DOS, targeting much of this effort at strengthening our nation's borders; mandates the transmittal of advance passenger lists; and implements a study to determine the feasibility of a North American Perimeter Safety Zone. (This study includes a review of the feasibility of expanding and developing pre-clearance and pre-inspections programs).

Given this law's ambitious provisions, Congress needs to step up to the plate and provide the federal agencies impacted with the staffing and funding levels they need to implement this measure's provisions, as well as perform adequate oversight. It is simply unacceptable for Congress to pass this bill and not give the federal agencies the funding they need to do a good job. It is also unacceptable for the agencies not to implement the mandates of this law.

**Recommendations:** Based on the above discussion and in order to implement feasible security objectives without seriously harming the international and cross border flow of trade and people, we submit the following recommendations:

***Realistic Assessment of the US-VISIT Program's Capabilities***

1. *Determine the limits of US-VISIT:* Congress and the DHS must step-back and determine the program's true capabilities and assess the feasibility of every aspect of the program while US-VISIT is still in its infancy. The 1998 Senate report on the entry/exit program challenges the notion that an entry/exit system can be used as a tool to prevent terrorism. If that is true, Congress must determine it now rather than after billions of US tax dollars have been spent. If the mission of US-VISIT is instead to catch visa overstayers and those with a criminal record, the mission should be clarified. On the issue of national security, a false sense of security is a failure.

2. *Develop a comprehensive plan for US-VISIT:* The Administration and Congress should use the above assessments to develop a comprehensive plan for US-VISIT that takes into account the achievable goals of the program, necessary funding levels, infrastructure needs, and appropriate deadlines.

3. *Do not use US-VISIT as a substitute for increasing our intelligence capacity:* Security experts agree that our national security is best enhanced by increasing intelligence and database security checks performed outside the country. DHS should examine ways to expand the use of pre-inspection stations and authorize pre-clearances for low-risk travelers. By clearing travelers before their voyage to the United States, inspectors will have more face time with applicants and could better scrutinize each applicant for entry. Such practices would reduce delays at the border and allow inspectors more time to do their job. Pre-clearances also would provide international travelers with a sense of certainty that they will be admitted into the U.S.

4. *Ensure US-VISIT receives the billions of dollars necessary for adequate implementation:* Congress must be prepared to spend the money necessary to properly implement US-VISIT to achieve its mission. In addition, Congress must conduct continual oversight to determine if US-VISIT objectives are being met due to the alleged security importance of the project. According to the DMIA Task Force's first report to Congress, the U.S. government needs to appropriate billions of dollars to purchase real estate, upgrade facilities, develop infrastructure and technological capabilities, and hire inspectors to manage the entry/exit program. With a preliminary estimated price tag of billions of dollars, the \$380 million appropriated in FY 2003 was grossly insufficient to fund even the beginnings of this system. Without sufficient funding, US-VISIT will not operate properly and will impede the flow of the people and trade essential to our economic well being.

***Database Recommendations***

1. *Make enforcement databases accurate:* The concept of a watch list database is dependent on accurate information. There must be accountability to ensure accuracy. In addition, all public inquiries concerning enforcement-related database entries should be consolidated. The general public should be able to contact a central office to timely remove inaccurate information so as to avoid the continuation of injustices tied to the dissemination and provision of any inaccurate information.

2. *Increase the interoperability of database systems:* DHS should prioritize its efforts to increase the interoperability of the database systems to give inspectors a more thorough and streamlined review of each applicant requesting entry into the U.S. Currently, the separate databases from the three immigration bureaus have not been fully integrated into US-VISIT. Due to this lack of information transfer, visitors who have applied for visa extensions might be detained for overstaying their visas, when in reality they had maintained proper visa status. Having complete and correct information will make the difference between having a workable secure system or a discredited inefficient one.

3. *Increase funding and oversight for IDENT to ensure that it is efficient, reliable and accurate:* Currently IDENT checks are being run at the time of US-VISIT enrollment at the U.S. Consulates (thereby delaying visa processing for each applicant by roughly three days in some cases) and are run at the ports of entry after the foreign national has entered the U.S. With the current IDENT processing times and infrastructure capacities at the ports of entry, it would be impossible to conduct



IDENT checks upon admission without shutting down the borders. Congress and DHS must determine if IDENT can be modified so that checks can be done at the time of admission and then commit funding to making that happen. If it is not possible, Congress must understand that US-VISIT does not enhance our security checks through the use of a biometric security database check upon admission. Instead, US-VISIT runs a text-based security database check at the time of admission and creates a catalog of established identities for foreign nationals who have enrolled in the program.

4. *Develop a biometric US-VISIT database:* Currently, the biometrics and biographical data of foreign nationals enrolled into US-VISIT is warehoused within the IDENT biometric database. By lumping US-VISIT enrollees in with criminals, we are sending the message that immigrants are criminals. Furthermore, commingling these two groups makes it more likely that errors will occur within the database and innocent travelers will be denied entry into the U.S.

#### **Infrastructure & Staffing Needs**

1. *Don't implement US-VISIT until an adequate infrastructure assessment is done and put into place:* The procedures for port enrollment in VISIT versus consular post enrollment do not mirror one another from a security review perspective. The reason for this dichotomy is based on logistical limitations. Reassess the use of IDENT checks and consider applying them only to higher risk segments of the population. Currently, the only "low-risk" populations identified are those under 14 or over 79. This method of exemption appears overbroad. Exemption from the IDENT check and US-VISIT enrollment should be based on intelligence, not stereotypes.

2. *Realistically assess the staffing and infrastructure necessary to implement US-VISIT:* Such an assessment would involve answering many questions including: How many ports have scanners, which read passports, laser visas, etc. at commercial, passenger vehicle and pedestrian lanes? What is the current level of overtime at the ports? What are the processing times for I-94, immigrant visa processing, and other adjudications before deciding the impact on our tourism and trade of US-VISIT requirements?

3. *Delay implementation at land border until an adequate infrastructure is in place:* The Border Security Act requires that DHS not impede the flow of goods and people across our nation's borders. Considering that the U.S. has over 300 ports of entry and, in 2001, over 510 million people entered the U.S. (63 percent of whom were foreign nationals) and over \$1.35 trillion in imports entered the U.S., the potential devastating effect of delay at the land ports of entry becomes clear. Furthermore, such delays would undermine the entire effort to maintain an efficient border, and efficiency is a vital component in increasing security.

4. *Clearly define what constitutes an exit and allow for flexibility in compliance with the exit requirements in the early stages of US-VISIT:* At this time, the airport and seaport exit functions of US-VISIT are being piloted. DHS is testing an exit kiosk, but it has also indicated that it will test handheld exit devices. DHS must clearly define what constitutes an exit and ensure that the exit function is clearly marked and cannot be ignored by an oblivious foreign national. In addition, the government should clarify that the negative consequences of those failing to properly exit during the first few years of US-VISIT will only be applied to willful violators. At land ports the lack of infrastructure makes it necessary to think creatively about exit control (such as allowing frequent travelers to skip the exit requirements since their multiple entries will verify that they previously departed the U.S. in a timely fashion) or possibly abandon exit controls there all together unless funding is allocated to the infrastructure and personnel investment required.

#### **Operational Assistance**

1. *DHS must increase its outreach to the public concerning US-VISIT:* DHS must inform US-VISIT enrollees of the program's requirements, and information must be widely disseminated and presented in a timely manner. Without adequate public notice on how to comply with these new US-VISIT requirements, the program will not operate properly and will impede the flow of people who are essential to our economic well being.

2. *Give US-VISIT enrollees a receipt and issue regulations allowing leeway during the program's infancy:* Without giving US-VISIT enrollees physical proof of their entry and exit into US-VISIT, enrollees will have no way to rebut system errors or to identify informational mistakes inputted into the system. Additionally, during US-VISIT's infancy, enrollees are facing much uncertainty regarding their responsibilities under this program. A grace period for exit control compliance and alternative methods by which visa holders may comply with exit control without penalty are necessary to ensure that innocent travelers are not unfairly penalized by US-VISIT.

3. *Limit the US-VISIT process for our Mexican neighbors who hold laser visas:* Only require US-VISIT compliance for laser visa holders when they would need an I-94 for admission. Do not require these frequent travelers to enroll or be tracked by US-VISIT when they do not go beyond 25 miles from the border (75 miles in Arizona) or remain in the U.S. over 72 hours. The laser visa biometric database maintained by State should be integrated into the US-VISIT biometric database. This merger would update the US-VISIT database for all laser visa holders without subjecting each laser visa holder to an initial US-VISIT enrollment. Still apply random IBIS checks for security updates.

#### **General Recommendations**

Our nation's ports of entry are complex environments into which US-VISIT has been thrust. The following recommendations will help provide order and accountability to that complex environment, thereby creating a more stable foundation upon which US-VISIT can be built.

1. *Establish an immigration specialist position at the ports of entry:* It is important that immigration specialists be designated and accessible to apply our immigration laws. For consistency and accurate applications of our complex immigration laws, the decisions of these specialists should be directed and coordinated by immigration counsel within the office of the DHS General Counsel. Such legal counsel must be coordinated with benefit-related adjudications housed in United States Citizenship and Immigration Services (USCIS) and enforcement policy and procedures applied by United States Immigration and Customs Enforcement (ICE).

2. *Don't conduct redundant security checks:* Many border residents cross the international border several times per day. It is critical to integrate existing voluntary frequent traveler programs so that enrollment in one provides a uniform access process at all our ports of entry. There should be one consistent enrollment process for air, land, and sea admissions. The Application Support Centers in the U.S. could help facilitate the process for those already here to enroll in such programs by providing biometrics. The former U.S. Customs Service created the C-TPAT program, which is a joint government-business initiative to build cooperative relationships that strengthen overall supply chain and border security. Why not allow and encourage employees of qualifying employers to enroll in frequent traveler programs as well? In addition, the NEXUS and SENTRI programs should merge and become the same uniform process. Why not allow such enrollment eventually at consular posts overseas as well? These actions require major funding and staffing, and yet they improve security and reduce congestion at our ports.

3. *Access to counsel:* Title 8 to the Code of Federal Regulations was modified to restrict access to counsel at ports of entry based on the law in existence at the time, which did not provide for expedited removal at ports of entry with no right to any administrative review. One of the bases cited for the ability to restrict such access was administrative remedy. When the law was changed to allow expedited removal from the U.S., no correction was made to the regulations. Legacy Customs has long allowed access to legal representation at ports of entry to deal with issues arising concerning the admission of goods. For example, the ability to contact a fines, penalties, and forfeitures officer to work on the release of goods held for some reason from import to the U.S. Such a practice should be extended to foreign nationals visiting our country. Just put yourself in their place applying for admission to a foreign country. Would a U.S. citizen want to be denied access to counsel or even an embassy representative due to some misunderstanding or error at a foreign port of entry? If the Golden Rule was ever needed, it is at our ports.

4. *Place cameras at the ports of entry:* Cameras have been used successfully at many ports to record the behavior and statements of the applicant and the officer. Inspections supervisors have praised the tool from a personnel perspective and embassies and applicants for admission have benefited from the recordings of this silent and objective witness. In addition, in some cases, these cameras could also implement cutting edge facial recognition technology to assist inspectors. These cameras should be installed at least in all secondary inspection areas.

5. *Equal benefits and treatment and the development of a DHS culture:* In order to ensure that CBP functions properly, it must develop its own unique culture in which immigration, agriculture, and customs functions are treated with equal respect. In addition, a continuing education component focusing on security and legal issues must be linked to pay increases and advancement to improve the quality of those guarding and applying the laws at our ports.

6. *Rethink the I-94 card:* I-94 cards and I-94W cards for visa waiver applicants have never been secure documents, and there are a myriad of ways to make these documents both more secure and more efficiently distributed: issue I-94 cards with the approval notices for initial grants of nonimmigrant work related visas; for busi-

ness visitor or tourists (B-1/B-2), tie the admission date stamped in the passport to a default admission period (such precedent already exists in the 90-day admission period under the Visa Waiver Program, and the prior typical default admission period of six months for tourist admissions); allow business visitors and tourists to apply for their admission document via the internet before their travel and confirm identity upon admission. In addition to these possibilities for issuing the I-94 card, fees for the card should never have to be collected by personnel. Instead, metro/subway type toll collection machines could be utilized, which would also result in decreased need for personnel oversight on collection issues.

Ms. GRANGER. Mr. Carlton?

**STATEMENT OF DENNIS CARLTON, DIRECTOR OF WASHINGTON OPERATIONS, INTERNATIONAL BIOMETRIC GROUP, LLC**

Mr. CARLTON. I would like to thank the committee for the opportunity to address you. I am Dennis Carlton. I am the director of Washington operations for International Biometric Group. On behalf of our company, I would like to talk to you today about biometrics in the U.S. border management system.

Let me begin with a brief description of International Biometric Group, so you better understand who we are and our unique position in the world of biometrics.

IBG provides independent consulting services to government and private industry customers interested in implementing biometric technologies. We take a practical, hands-on approach toward biometrics, having tested more than 50 different biometric solutions over the past five years, so we know how they are likely to perform in the real world.

IBG holds to a strict vendor-neutral policy, which enables us to maintain close relationships with biometrics vendors while ensuring our clients receive accurate and independent advice on which biometric systems can best meet their needs.

One year ago, IBG delivered a report to the White House Office of Science and Technology Policy entitled "The Use of Biometric Technologies in the United States Visa Issuance and Border Entry-Exit Systems." I was the principal investigator and author of this report.

In conducting research for this study, we visited several U.S. consulates around the world, as well as American sea, air and land ports of entry.

The OSTP report is a no-holds-barred look at the practical challenges of implementing biometrics in the field, both at consulates and at ports of entry.

IBG's report to the OSTP highlighted several issues related to integrating biometrics within US-VISIT that are worthy of re-emphasis before this committee. Biometrics should be implemented in a manner that augments, rather than replaces, existing border management I.T. systems. Biometrics alone cannot replace the professional judgment of experienced border management personnel.

The system also must be designed with an eye toward continuing technology refreshment. The life cycle of biometric products turns over at least as fast as other I.T. components.

The government must invest in continuing research and development into improving biometric products. In the past few years, there has been an explosion in new biometric technologies being in-

troduced into the marketplace, many of which warrant the nurture of federal government.

The success of any biometric solution depends in great measure on its stakeholders establishing realistic performance expectations for the system. And given its unprecedented scale and visibility, this will be especially true of US-VISIT.

Stakeholders need to have practical expectations as to the performance of biometric technologies. The current generation of biometric systems is not 100 percent accurate, but biometrics don't need to be perfect in order to enhance border security.

The mere presence of a device can positively link an individual with the documentation that they carry. And this will serve as a deterrent to many impostors.

In addition, the system design must incorporate a comprehensive security and privacy architecture. Good security and privacy practices are not antithetical and can both be accommodated in US-VISIT. Biometrics themselves are privacy neutral. It is the way they are employed and the protections put in place to limit misuse that makes biometrics either privacy invasive or privacy protective.

What is essential is that individuals are fully informed on how their biometric data is collected, used, shared and secured.

The advent of US-VISIT and biometric technologies at U.S. ports of entry need not result in delay and inefficiency. There are several means for mitigating the impacts of these changes.

First, border management solutions must be prepared to accommodate multiple forms of biometric technologies. Although the International Civil Aviation Organization has specified facial recognition as the universal biometric for securing machine-readable travel documentation, the U.S. will continue to leverage its investment in fingerprint databases to identify travelers who might pose a security threat.

A universal biometric solution is not necessary in order to achieve a secure border management solution, so long as countries agree to provide one another with the ability to decode and match the specific biometric data associated with the travel document.

Secondly, although the challenge of implementing biometric identification at land ports of entry is daunting, it is not insurmountable. IBG believes that portable fingerprint reading devices can be employed to match the index fingers of passengers in a vehicle with the travel documents that they carry.

The capture of fingerprints must take place upstream from the primary inspection station, so that a biometric search can be completed before the vehicle reaches the primary inspection position. In this way, the biometric search does not impact the overall primary inspection time, and the primary inspector is not distracted from conducting a thorough assessment of the vehicle, its occupants and its contents.

At exit points from the U.S., the government should provide a self-service kiosk type of solution that would allow an exiting U.S. citizen a means for self-enrollment of their travel-related documentation and biometrics.

In exchange for taking the time to scan an identity document and provide a biometric sample, the citizen would be entitled to use

a type of blue lane that would offer expedited processing upon their return to the U.S.

And finally, we should expect that most problems associated with biometrically secured travel documents would be of an innocent or inadvertent nature, rather than a fraud attempt.

The U.S. should provide travelers with a real-time problem resolution solution, such as a phone number or e-mail address, where they can immediately reach someone in an ombudsman-like role who can begin the process of resolving the travel documentation problem.

I will finish my remarks here and answer your questions.

[The statement of Mr. Carlton follows:]

#### PREPARED STATEMENT OF DENNIS CARLTON

My name is Dennis Carlton and I am the Director of Washington Operations for International Biometric Group of New York City. On behalf of our company, I'd like to thank the committee for the opportunity to talk to you about the technology called biometrics and some of the likely the issues associated with introducing biometrics into the border management system.

Let me begin with a brief description of International Biometric Group so that you better understand who we are and our unique position in the world of biometrics. International Biometric Group, or IBG, provides independent consulting services to government and private industry customers interested in implementing biometric technologies. Our organization focuses on three primary functions: (1) evaluating and reporting on biometric products and vendors, as well as the markets in which they compete, (2) advising clients on how to implement biometric systems, and (3) integrating a wide range of biometric hardware and software to meet the security needs of our customers. We take a practical, hands-on approach toward biometrics. We have conducted extensive comparative performance testing of more than fifty different biometric solutions so that we know how they're likely to perform in the real world. IBG holds to a strict vendor-neutral policy, which enables us to maintain close relationships with biometrics vendors while ensuring that our clients receive accurate and independent advice on which biometric systems can best meet their needs.

I'd like to take a moment to review some of the basics of biometrics. A technical definition of biometrics is the automated measurement of behavioral or physiological characteristics of a human being to determine or authenticate their identity. In other words, it's the use of computers to confirm who a person is by matching a behavior or a permanent physical characteristic with similar records in a database. Biometrics alone can't determine an individual's identity but they can effectively distinguish one person from another. There is a wide range of products in the market that can acquire and match a person's biometric data to perform a quick and accurate identification. With respect to border management, the U.S. has focused its attention on fingerprint matching and facial recognition biometrics, although other biometrics such as iris recognition, hand geometry, and speaker authentication technologies are also being assessed.

One year ago, IBG delivered a report to the White House Office of Science and Technology Policy entitled "Use of Biometric Technologies in the United States Visa Issuance and Border Entry/Exit Systems". I was the principal investigator and author of this report, a summary of which has been included in the material provided to committee members. In conducting research for this study we visited several U.S. consulates around the world as well as American sea, air and land ports of entry. The OSTP sought a no-holds-barred look at the practical challenges of implementing biometrics in the field both at consulates and ports of entry—I like to think we accomplished that goal. From the OSTP research and our subsequent participation in several ongoing initiatives involving biometrics and international travel security, IBG has gained significant insight into the integration, performance, and workflow challenges associated with implementing biometrics within US-VISIT and our border management system.

IBG's report to the OSTP highlighted several issues related to integrating biometrics within US-VISIT worthy of reemphasis before this committee:

- Biometrics should be implemented in a manner that augments rather than replaces existing border management IT systems. The fact that an individual matches the biometric associated with a travel document does not ensure that

the individual qualifies for admission to the United States. Biometrics alone cannot replace the professional judgment of experienced border management personnel.

- Since the current generation of biometric technologies is not 100 percent accurate, a seamless exception handling process must be incorporated throughout the design of the system.
- The system also must be designed with an eye toward continuing technology refreshment. The lifecycle of biometric products turns over at least as fast as other IT components—US-VISIT should be designed with seamless transitions to newer, more accurate solutions in mind.
- The government must invest in continuing research and development into improving biometric products. The centennial of the Wright Brothers first powered flight serves as a reminder that significant innovations may come from unlikely sources. In the past few years there has been an explosion of new biometric technologies being introduced into the marketplace, many of which warrant the nurture of the federal government. In addition to financial support, the federal government may need to approve regulatory and legislative changes to authorize the development of databases that can be used to test the effectiveness of new biometric solutions.

The success of any biometric solution depends in great measure on its stakeholders establishing realistic performance expectations for the system; given its unprecedented scale and visibility, this will be especially true of the US-VISIT system. Among the key performance considerations are:

- Stakeholders need to have practical expectations as to the performance of biometric technologies. The current generation of biometric systems is not 100 percent accurate but biometrics don't need to be perfect in order to enhance border security. The mere presence of a device that can positively link an individual with the documentation they carry will serve as a deterrent to many impostors. Border inspection personnel use their professional judgment to resolve exception situations every day; biometrics problems can be resolved in much the same manner as any other identification document discrepancy.
- The system design must incorporate a comprehensive security and privacy architecture. Good security and privacy practices are not antithetical and can both be accommodated in US-VISIT. Biometrics themselves are privacy neutral—it's the way they are employed, and the protections put in place to limit misuse, that make biometrics either privacy-invasive or privacy-protective. What is essential is that individuals are fully informed on how their data is collected, used, shared, and secured. For more information about biometrics and privacy I commend to you an IBG-sponsored website dedicated exclusively to the subject, [www.BioPrivacy.org](http://www.BioPrivacy.org).
- Reaching a consensus with our international partners on privacy policy will be difficult because of significant differences in our privacy expectations. In general, while Americans often don't hesitate to provide personal data in exchange for commercial benefits but frequently oppose sharing such data with government, their counterparts in Europe and Asia view cooperation with their government as a duty of citizens in a civil society but don't feel similarly compelled to provide personal data to commercial concerns. For the time being, some parties have staked out extreme positions. Compromise will mostly likely be achieved when views converge toward a standard that defines a minimal exchange of a traveler's personal or biometric data to effect efficient commerce between governments.

The advent of US-VISIT and biometric technologies will certainly alter the primary and secondary inspections processes at U.S. ports of entry but these changes need not result in delay and inefficiency. Some of the measures that can be taken to reduce the impacts caused by these changes include:

- U.S. border management solutions must be designed to accommodate multiple forms of biometric technologies. Although the International Civil Aviation Organization has specified that facial recognition is the universal biometric to secure machine-readable travel documentation, the U.S. will continue to leverage its investment in fingerprint databases to identify travelers who might pose a security threat. A universal biometric solution is not necessary in order to achieve a secure border management solution so long as countries agree to provide one another with the software necessary to decode and match the specific biometric data associated with a travel document—this approach would allow Visa Waiver Program participating countries to confirm the identity of one another's citizens. A travel document that is secured by multiple forms of biometric technologies would significantly complicate the job of a forger or impostor. Eventually the

U.S. will need to employ biometrics to secure the travel documents it issues its own citizens or risk having a U.S. passport become the document of choice for fraudsters or terrorists seeking to avoid being exposed by biometric identification.

- The challenge of implementing biometric identification at land ports of entry is daunting but not insurmountable. IBG believes that portable fingerprint reading devices can be employed to capture images of the index fingers of all passengers in a vehicle in order to authenticate them with the travel documentation they carry and to check against watch lists of undesirable individuals. The capture of fingerprints must take place 'upstream' from the primary inspection station so that a biometric search can be conducted before the vehicle reaches the primary inspection position. In this way, the biometric search does not impact the overall primary inspection time and the primary inspector is not distracted from conducting a thorough assessment of the vehicle, its occupants, and its contents.

- At exit points or other U.S. government service centers such as post offices, the government should provide a self-service kiosk that will allow exiting U.S. citizens a means for self-enrollment of their travel-related documentation and biometrics. In exchange for taking the time to scan their identity documentation (e.g., driver's license, passport, etc.) and providing a biometric sample, the U.S. citizen could use a 'Blue Lane' that would offer expedited processing when returning. The success of solutions like the SENTRI system on the U.S.-Mexico border and the U.S.-Canadian cooperative program called NEXUS shows that both U.S. and foreign citizens are willing to provide personal and biometric data to the government in exchange for the very tangible benefit of expedited border crossing. If they become widely used, these solutions could help make a dent in the rise in identity theft crimes by making it much more difficult for an identity thief to travel internationally on a stolen U.S. identity document.

- We should expect that most problems associated with biometrically secured travel documents would be of an innocent or inadvertent nature rather than a fraud attempt. It won't be a sufficient solution to just turn away at an airline counter or border post a traveler who has a problem matching a biometric sample with a travel document. The U.S. should provide travelers with a real-time problem resolution solution—a phone number or email address where they can immediately reach someone in an ombudsman-like role who can begin the process of resolving their travel documentation problems.

In summary, biometrics will play an increasingly important role in enhancing the integrity of U.S. border management systems. With clear guidelines and careful compliance with the rules of how, when, and where biometrics will be collected and employed, these tools can improve border security while at the same time protect the privacy and dignity of the legitimate traveler.

I look forward to responding to the committee's questions.

Ms. GRANGER. Thank you.

We will now go to questions. We will adhere to the five-minute rule, including my questions.

I will start with Mr. Carlton first.

You talked about the concern about mistaken or inadvertent biometric identity mismatches. How would you propose to best address those occurrences, especially from the perspective of safeguarding privacy?

Mr. CARLTON. Right now, the current border processes handle that on a daily basis. There was earlier discussion about common names—if a name of John Smith is entered into a text database, you get all kinds of John Smith responses back. Some of them may be wanted criminals. But it doesn't mean that you push the button to bring in the SWAT team immediately because there is a namecheck match.

The same thing would happen with a biometric search. From the data I have heard so far from the folks at DHS, they have been able to clear false matches of their current system in about a minute—just over a minute right now. So they have actually been

able to resolve problems very quickly, even when there is a biometric mismatch.

Ms. GRANGER. Thank you.

Ms. Campbell Walker, in your written testimony, you mention that travelers going through primary don't have their biometric data checked through IDENT prior to their admittance to the country. That is in your written testimony.

But the panel that we had made it very clear that the US-VISIT has provided primary inspectors with the new mission capabilities allowing them to do immediate IDENT verifications.

Do you have an inside question about that?

Ms. CAMPBELL WALKER. Thank you.

Yes, I do, and thank you for the opportunity to address it, because it is a very—well, to me it is—a very complex issue in trying to figure out how to relay this information to the panel.

The IDENT check pre-US-VISIT is a check of legacy INS database. And it is a database of recidivist people who were caught by Border Patrol and then brought back, trying to make sure that you had a record so if they came back again, you would know that they did this before, and then a look-out database.

And what happens right now, is that if you are going to be checked in IDENT, at where we are, you go into secondary and they have an average of a three to five minute response time. That is a full IDENT check, where it is a biometric check against the full IDENT biometric database.

My understanding is that that same full biometric database is being conducted by the Department of State in US-VISIT enrollment abroad at our consular post. And Ms. Harty just mentioned that it was seven to eight minute time frame for the Department of State.

And now, let's compare it to the story about the enrollment process for US-VISIT at our ports of entry, and here is where I have a basic disconnect. Three to five minutes, seven to eight minutes, 15 seconds.

When I asked the question to various port directors in different states, what I am being told is that, yes, there is an IDENT check, because, remember that when they are enrolled, they go into the US-VISIT database as a part of IDENT, so the identity is being confirmed. But the full IDENT check that we all know and respect is not able to be conducted in a timely manner, in 10 to 15 seconds.

So there is a modified version of it that they run the data against, so that the time frame is shorter.

So, yes, I see in some ways that we have got an identity check being conducted. But they are still basing the primary watch list on the text check, so it is not the same thing. We are not comparing it apple to an apple.

Ms. GRANGER. Thank you.

That is all the questions I have.

They are going to the IDENT in the State Department, overseas, that is right. The question is the 15 seconds and what that—it is confirming the identity, is that right?

We will have more information on that in the report.

Ms. Sanchez?

Ms. Loretta SANCHEZ of California. Thank you, Madam Chair.



Ms. Walker, I have several questions for you.

First of all, how would you characterize the US-VISIT program? What I mean by that, we conceived it to be an entry-exit system, predominantly to catch people with overstayed visas, et cetera. Now it is more of a security tool.

What do you think are its positives and its negatives as an immigration tool and as a security tool, given the years of experience you have had in El Paso in particular?

Ms. CAMPBELL WALKER. From a positive perspective, it definitely—if you are able to confirm someone's identity timely, that is a positive thing. Definitely, if one is able to run theoretically these IBIS text-based checks. The litany of examples given by Undersecretary Hutchinson were very instructive, and also the examples regarding Assistant Secretary Harty.

But the class check, when it was being done, before US-VISIT, would have brought up these examples that we are talking about. Also the IBIS check would have brought up some of these examples that we are talking about, if they were in the database.

The patina being placed on this scenario by US-VISIT is the possibility of identity verification, a great positive.

But let's face the situation: Once they are admitted and they are in overstay, we don't have sufficient interior enforcement to deal with it as it stands, to be able to follow up on this.

There are several facets of this that we need to address to make US-VISIT even have a possibility of success.

From a terrorist perspective, I am sorry, I still think we have a very limited number of terrorist fingerprints that we can run against, and we are not able to do that quick biometric check against the full IDENT database now.

And I wanted to address a very quick point that Madam Chair, Ms. Granger, mentioned earlier, on this IDENT issue and IAFIS. And I hope that our biometric expert will speak in a moment about that point.

IDENT and IAFIS, they are not fully integrated. There have been several reports to that effect and the fact that we don't have sufficient funding to allow said integration. That is a critical component to eventually allow for further database review.

Ms. Loretta SANCHEZ of California. Thank you.

You know, looking at this Phase 1, it has been pretty successful, the implementation and the agencies getting this all up. I think it is a decent start of where we are.

But I am really taking a look at the fact that we are strained with respect to personnel and the resources just to get that first phase. Now we are looking at Phase 2, Phase 3, we are talking about land borders. What are your concerns, knowing what you do, especially on the land border situation, at the enormity—I mean, what are the lessons learned or what do we have to watch out for, in particular with respect to resources, to get this implemented elsewhere?

Ms. CAMPBELL WALKER. There is a great provision in the second annual report of the Data Management Improvement Act task force, report to the Congress, reflecting right now the challenges at land borders, just in infrastructure and physical facility alone.

I will try to remember this off the top of my head, they indicate that there are several ports that have absolutely no additional infrastructure to allow for expansion. This is important if we are going to try to deal with exit at all and for that matter increase the level of staffing necessary to do these biometric checks of people coming in.

They have a chart showing that maybe 60 of them only have a 20 percent expansion capacity.

And already I believe Jim Williams has been quoted in the paper indicating that he is concerned about the ability to implement US-VISIT timely at land borders.

We don't have people for exit; we don't have land and infrastructure; we don't have scanners; we don't have—people right now, if you want to look at overtime that is being logged in and paid by the government right now, just implementing our current systems, it is out the window.

Plus people are leaving in droves because of the level of stress they are put under and the demands placed upon them right now.

These are incredibly difficult jobs these people are carrying out, and they need support. And we just don't have the capacity to do this in the time frame necessary.

Ms. Loretta SANCHEZ of California. Only 5 percent of the people who are crossing our land borders actually are using some type of visa. I know when I cross and they just kind of look at me and they wave me on or what have you. I mean, what does that signify with respect to trying to really figure out who is coming in and who is going out under these phased implementations to the program?

Ms. CAMPBELL WALKER. Well, let's face it, right now, I mean, U.S. citizens are one of the least well documented, and Mexican citizens are one of the best documented. Mexican citizens—those who have laser visas—have a document that has a biometric embedded in it with two prints and the digitized photograph that is the basis for US-VISIT going forward.

We are not even able to merge that database with the IDENT database right now, so that we don't have to enroll Mexican citizens as they come across. The idea that every Mexican citizen, when right now it is less than 5 second coming in, is going to be two-printed and it is going to be 10 to 15 seconds, it is quick to see what we are going to deal with as far as time frames and backups on doing it.

It makes sense to deal with risk management at this point. And why can't we go ahead and merge those databases and give some relief to at least our Mexican neighbors as we are doing to our Canadian neighbors to the north?

Ms. Loretta SANCHEZ of California. Thank you.

Ms. GRANGER. I now recognize Representative Turner for five minutes.

Mr. TURNER. Ms. Walker, I want to thank you for sounding the alarm for us, because I completely agree with you. I think we are ill-equipped and ill-prepared to be able to efficiently and effectively implement US-VISIT at our land borders. And I hope that this committee in a bipartisan way will call upon the Department of Homeland Security to do the necessary analysis to submit to the Congress what the needs are in terms of personnel, infrastructure,

data integration, in order to be able to successfully implement US-VISIT at our land border crossings without creating a crisis.

And it will be a crisis for many of our border communities if we fail to provide the necessary support. And to my knowledge, to date I have not seen—and I don't think the department has prepared—a plan that would lay out for us what the true cost of effective implementation of US-VISIT less than one year from now should be in order to carry it out in an effective way.

And so, we have got to do that. As you said, it is a reality check.

And I was interested, you made mention of the deployment of 1,000 biometric scanners, and I don't know that you got to expand upon that, about how inadequate that actually is. But I would invite you to kind of talk about that, as one example of how far we have to go.

Ms. CAMPBELL WALKER. Well, for me it is easiest just to take a home example, so if you will indulge me, let me just try to do that.

One of our major ports of entry is the Bridge of the Americas. We have anywhere between four to six pedestrian lanes there and then we have the Paso del Norte Bridge, where there is maybe five to six pedestrian. And then you have maybe 10—and they are trying to up it to 24 lanes—of passenger vehicle traffic. And then we have at just the one, Bridge of the Americas, and then there is the other 10 at the Paso del Norte Bridge.

So there is no way that 1,000 is going to cut it. And so, right now, the only thing they have right now at a passenger vehicle lane is that I have a mobile text unit, which is that legacy Customs-based system in which I type in to hook into the IBIS check on someone.

But you don't IBIS check everyone in a passenger vehicle lane.

And in fact, post-9/11, what happened was that they pushed IBIS inspection percentages higher on pedestrians. So as our pedestrian lanes bumped back because of the slowdown, people got in cars.

Well, it doesn't take a rocket scientist, if you are a really savvy terrorist, indeed if we are talking terrorism here, to say, well, okay, if get on wheels versus walk across, then, okay, the percentage is going to be less that I may get caught. It is just mindboggling.

So what I am just hoping is that there is a realistic assessment of where we are. The questions need to be asked: How many lanes do you have? How much overtime do you have? How long does it take you to get the checks?

Right now, in mobile text, what information can you get?which I am pretty clear about that right now. And how long is it going to take you and what is the implementation schedule necessary to be able to accomplish "X" goals?

And I think we just had a recent GAO report stating that Department of Homeland Security doesn't know how much it is going to take to get some of these things done.

So it is a logical response.

It is a hard time frame to get this done. Heck, it has been going on for seven years, trying to figure out how to implement this. How are they supposed to do it in a matter of a few months?

Mr. TURNER. Thank you, Ms. Walker.

Ms. GRANGER. The chair recognizes Mr. Dicks.

Mr. DICKS. I want to compliment the panel on their testimony.

Mr. Carlton, tell us about 10 fingers versus two fingers—and I know you know the answer. Explain this. I think with the IDENT system and the IAFIS system there is an example of flat fingerprinting versus rolled. And because of the difference in the two, there was a 40 percent discrepancy. Is that not correct?

Mr. CARLTON. I don't have the exact data, but let me try and?

Mr. DICKS. Explain it for us. I think it is important.

Mr. CARLTON. —discuss the general topic.

Mr. DICKS. Right.

Mr. CARLTON. The issue with only capturing two flat fingers from everyone is going to become a problem later on down the road. As the size of the database gets bigger, the limited amount of data that can be acquired from the two fingerprints means that the system is going to start returning more and more false matches, because there just isn't sufficient data to find the matching record in the database.

So the issue you raised earlier is, you are pushing out into the future a challenge of either re-enrolling everyone to get eight or 10 fingers or some interim policy there.

But, yes, sir, eventually you are going to start running into problems there.

Now, the data I have so far, that I heard just today from my DHS colleagues, is that the performance of the fingerprint systems they are using is actually very, very good. Their false match rate is significantly lower than they had expected. And that would be consistent with this initial rollout, when the database is relatively small. It is a problem that will be manifest later on.

Mr. DICKS. Well, why not do it right from the start? I mean this idea that 600,000 people have come in, we have done it with two when we could have very easily done it with 10. How much longer does that take?

Mr. CARLTON. See, I think the challenge right now is, in part, that the technology is much better understood for the single finger matching, both the hardware and the process of using a single finger match. There is still work to be done in the human flow of work from the employee side and let's say the customer-client side in actually capturing all 10 fingerprints.

So there is the human element of being able to use the technologies. It is just easier to use the flat finger, single finger capture right now.

Mr. DICKS. Why were they doing it with flat fingers in one situation and then rolled fingers in the other, which causes 40 percent discrepancy?

Mr. CARLTON. The distinction is the requirements for law enforcement versus a civil identification system. A law enforcement system is typically based on fingernail to fingernail roll of the fingerprint. And that is, as my colleague is here, reaching for cup, that often from a crime scene standpoint, it is not actually the flat part of the fingerprint that is left behind. And so for forensic research, you really need the whole fingerprint.

The other thing you have to understand is those fingerprints that are captured in a rolled process, that takes a long time and almost

always requires a human being to help guide the process of capturing those 10 fingers.

That is going to be very complex for people in consulates overseas, because often they operate on the opposite side of a hardened wall and glass from the public that they are trying to serve, so you cannot actually even help someone if you wanted to roll fingerprints.

So the practicality is, the capturing of fingerprints overseas is going to have to be flat fingers.

Mr. DICKS. Okay.

I just would mention in the GAO report, currently FBI IAFIS is only 40 percent accurate in matching their database of rolled fingerprints to the flat prints in the IDENT system. Does that make sense?

Mr. CARLTON. It is entirely possible, yes, sir.

Mr. DICKS. So we have a problem here. The Appropriations Committee is certainly trying to take steps to push them to do the right thing here and at least to know that they have a problem.

Thank you, Madam Chairman.

Ms. GRANGER. Thank you.

Mr. May, I appreciate your comments on the US-VISIT program and I am certainly pleased to hear about the cooperation between DHS and the private sector.

You had a concern about airline personnel playing a role in collecting exit information from passengers. This is a little information sheet that has been prepared by Homeland Security. This is in English and Spanish and also visual. Do you think the airlines would be willing to hand out these small information cards to help people understand better?

Mr. MAY. Madam Chairman, we do hand out cards of that sort in the one test area that exit is under way today. And so, I mean, there are a number of areas where we can be helpful to DHS in helping implement this program.

What we are not interested in doing, I would like to re-emphasize, is having the exit program executed, if you will, at the ticket counter or at the gate, which in effect turns my agent into immigration's agents. And that is a non-starter from our perspective.

Ms. GRANGER. I understand.

Ms. Sanchez, do you have further questions?

Ms. Loretta SANCHEZ of California. I just wanted, very quickly, to ask Mr. May, you had some testimony about exit fees and charging some exit fees in order to pay for some of this. And I wondered if you had any comments you wanted to give to this committee?

And lastly, Ms. Walker, I just wanted to make sure that the initial question that you wanted to pose from your beginning testimony about the IDENT system, if you had gotten everything out that you think this committee should know about.

Mr. MAY. I think the key that this committee should know about is, first of all, the fee issue: The airlines industry, which already lost about \$5 billion last year, is currently spending today, now, probably \$3 billion annually to comply with federally mandated security measures.

We believe very strongly that federal security is a function of the federal government, soup to nuts, start to finish. That is point one.

Point two, vis-a-vis this exit program, we are concerned about making sure that you capture information. It is voluntary today. I agree with everything that has been said about the magnitude of the problem when you expand to a land-based environment, because you are only capturing a very, very small percentage of the total traffic when you look at airlines, for example.

I think they are doing a great job of putting it in place for entry. They need to figure out how to better require people to do this on exit, because the other unfortunate byproduct is, you could sent somebody, when this becomes a regular part of the process, somebody didn't check out as they left the United States, they come back to the United States, they are inadmissible, to use a term of art I have learned, and at that point, we are responsible for returning them to their point of origin at our cost.

And I am not exactly excited about the prospect of having thousands of people being returned to their point of origin, for any good reason. But if it is simply because they didn't go through that exit process, that is going to further complicate it.

So I am not suggesting there are any issues here that DHS is not aware of. I am not suggesting that there aren't people of great faith that are working on all of these issues. But I think, as some of my colleagues on this panel have pointed out, the magnitude of the effort is huge and I am not sure fully understood by everybody to date.

Ms. CAMPBELL WALKER. In trying to shed myself of all of my IDENT issues, just one more point. There was a comment regarding the eight prints, why didn't we do the 10 prints from the beginning, a very cogent response on that.

In 2005, though, the Department of State has already indicated that they are planning on moving to eight prints as a part of their process. And a part of it is due to the fact that they expect the database to be so overloaded and unresponsive that they are going to have to do that and in addition to that provide additional documentation to help separate people.

So that is already a part of the issue.

But again, on the IDENT check, let us assume that they have done something incredible, and that is great, if they have managed to do a full IDENT check in 15 seconds, what a marvelous thing if that has been accomplished.

But even if it has been accomplished, that 15 seconds, and doing that check for every single person trying to be admitted in a land border—because you cannot separate them out. There is no place to say U.S. citizens go here, legal permanent residents go here, those other people go here—will back us up so far into Mexico on the southern border that we might as well go back into negotiations regarding treaty acquisition of land, which I don't think President Fox is going to appreciate.

So we need to really think this through before saying we have got to meet that December 31st deadline.

Thank you.

Ms. GRANGER. I appreciate both panels, your testimony, your attendance. The chair notes that some members may have additional questions for this panel which they may wish to submit in writing. Without objection, the hearing record will remain open for 10 days

for members to submit written questions to these witnesses and to place their responses in the record.

There being no further business, I again thank the subcommittee members and our witnesses today, and the hearing is now adjourned.

[Whereupon, at 1:44 p.m., the subcommittee was adjourned.]





## APPENDIX

### MATERIAL SUBMITTED FOR THE RECORD

QUESTIONS AND RESPONSES OF THE HONORABLE MAURA HARTY, SUBMITTED BY THE  
HONORABLE DAVE CAMP

**Question:** Could you provide us with an implementation schedule for posts as to biometric visa processing in the nonimmigrant and immigrant visa context?

**Answer:** The implementation schedule is attached. The schedule indicates the post name, type of biometric installation, start and finish dates of the trip, and whether the post has gone live with biometrics. Each trip includes biometric installation as well as general training and hardware maintenance objectives. Before October 26, 2004 we will install and go live with biometrics at all nonimmigrant and immigrant visa issuing posts. As of March 10, 91 posts are processing biometric nonimmigrant visas, and one post is processing biometric immigrant visas.

#### CONSULAR AFFAIRS Biometric Installations Schedule for NIV and IV

Post	Biometric Implementation	Start	Finish	Comment
FRANKFURT .....	2-print NIV .....	9/11/03	10/1/03	Completed
BRUSSELS .....	2-print NIV .....	9/17/03	9/30/03	Completed
SAN SALVADOR ...	2-print NIV .....	9/22/03	10/3/03	Completed
MONTREAL .....	2-print NIV .....	10/6/03	10/22/03	Completed
CAIRO .....	2-print NIV .....	10/8/03	10/16/03	Completed
OTTAWA .....	2-print NIV .....	10/14/03	10/22/03	Completed
KAMPALA .....	2-print NIV .....	10/15/03	10/30/03	Completed
LAGOS .....	2-print NIV .....	10/15/03	11/5/03	Completed
DOHA .....	2-print NIV .....	10/20/03	11/3/03	Completed
TALLINN .....	2-print NIV .....	10/20/03	11/3/03	Completed
RIGA .....	2-print NIV .....	10/22/03	11/6/03	Completed
HALIFAX .....	2-print NIV .....	10/24/03	11/7/03	Completed
VANCOUVER .....	2-print NIV .....	10/24/03	11/10/03	Completed
ABU DHABI .....	2-print NIV .....	10/27/03	11/10/03	Completed
FLORENCE .....	2-print NIV .....	10/27/03	11/14/03	Completed
BANGKOK .....	2-print NIV .....	10/29/03	11/21/03	Completed
COPENHAGEN .....	2-print NIV .....	10/31/03	11/14/03	Completed
RIYADH .....	2-print NIV .....	11/4/03	11/19/03	Completed
KUALA LUMPUR ..	2-print NIV .....	11/5/03	11/21/03	Completed
JERUSALEM .....	2-print NIV .....	11/5/03	11/21/03	Completed
TEL AVIV .....	2-print NIV .....	11/5/03	11/28/03	Completed
ANKARA .....	2-print NIV .....	11/6/03	11/21/03	Completed
DUBAI .....	2-print NIV .....	11/10/03	11/26/03	Completed
PORT LOUIS .....	2-print NIV .....	11/10/03	11/21/03	Completed
KUWAIT .....	2-print NIV .....	11/11/03	11/24/03	Completed
MAPUTO .....	2-print NIV .....	11/12/03	11/25/03	Completed
KOLONIA .....	2-print NIV .....	11/12/03	11/24/03	Completed
MASERU .....	2-print NIV .....	11/12/03	11/26/03	Completed
SAN JOSE .....	2-print NIV .....	11/12/03	11/26/03	Completed
DAMASCUS .....	2-print NIV .....	11/17/03	12/2/03	Completed
BILISI .....	2-print NIV .....	11/17/03	12/2/03	Completed
ORONTO .....	2-print NIV .....	11/19/03	12/9/03	Completed
CALGARY .....	2-print NIV .....	11/24/03	12/9/03	Completed
CHIANG MAI .....	2-print NIV .....	11/24/03	12/9/03	Completed

## CONSULAR AFFAIRS Biometric Installations Schedule for NIV and IV—Continued

Post	Biometric Implementation	Start	Finish	Comment
MOSCOW .....	2-print NIV .....	11/26/03	12/19/03	Completed
JEDDAH .....	2-print NIV .....	12/2/03	12/16/03	Completed
ASMARA .....	2-print NIV .....	12/3/03	12/16/03	Completed
B.S. BEGAWAN .....	2-print NIV .....	12/3/03	12/17/03	Completed
MUSCAT .....	2-print NIV .....	12/3/03	12/18/03	Completed
PANAMA CITY .....	2-print NIV .....	12/3/03	12/19/03	Completed
ISLAMABAD .....	2-print NIV .....	12/3/03	12/19/03	Completed
ISTANBUL .....	2-print NIV .....	12/3/03	12/17/03	Completed
MINSK .....	2-print NIV .....	12/3/03	12/16/03	Completed
TASHKENT .....	2-print NIV .....	12/4/03	12/19/03	Completed
AMMAN .....	2-print NIV .....	12/5/03	12/23/03	Completed
CHISINAU .....	2-print NIV .....	12/8/03	12/19/03	Completed
KOROR .....	2-print NIV .....	12/8/03	12/19/03	Completed
SANAA .....	2-print NIV .....	12/8/03	12/24/03	Completed
QUEBEC .....	2-print NIV .....	12/11/03	12/23/03	Completed
BELIZE CITY .....	2-print NIV .....	1/5/04	1/16/04	Completed
BRATISLAVA .....	2-print NIV .....	1/7/04	1/23/04	Completed
WINDHOEK .....	2-print NIV .....	1/7/04	1/22/04	Completed
CAPE TOWN .....	2-print NIV .....	1/7/04	1/20/04	Completed
BISHKEK .....	2-print NIV .....	1/8/04	1/16/04	Completed
SURABAYA .....	2-print NIV .....	1/14/04	1/28/04	Completed
YEKATERINBURG .....	2-print NIV .....	1/14/04	1/29/04	Completed
DUBLIN .....	2-print NIV .....	1/14/04	1/27/04	Completed
MILAN .....	2-print NIV .....	1/15/04	1/28/04	Completed
BAKU .....	2-print NIV .....	1/22/04	2/4/04	Completed
DURBAN .....	2-print NIV .....	1/22/04	1/30/04	Completed
MELBOURNE .....	2-print NIV .....	1/22/04	2/4/04	Completed
RECIFE .....	2-print NIV .....	1/22/04	2/4/04	Completed
VALLETTA .....	2-print NIV .....	1/22/04	2/4/04	Completed
JAKARTA .....	2-print NIV .....	1/30/04	2/17/04	Completed
BANJUL .....	2-print NIV .....	2/2/04	2/13/04	Completed
HONG KONG .....	2-print NIV .....	2/2/04	2/13/04	Completed
SAO PAULO .....	2-print NIV .....	2/2/04	2/25/04	Completed
ST PETERSBURG .....	2-print NIV .....	2/2/04	2/20/04	Completed
VLADIVOSTOK .....	2-print NIV .....	2/2/04	2/9/04	Completed
YAOUNDE .....	2-print NIV .....	2/4/04	2/19/04	Completed
ALMA TY .....	2-print NIV .....	2/4/04	2/17/04	Completed
JOHANNESBURG .....	2-print NIV .....	2/4/04	2/20/04	Completed
N'DJAMENA .....	2-print NIV .....	2/6/04	2/18/04	Completed
PERTH .....	2-print NIV .....	2/6/04	2/17/04	Completed
SUVA .....	2-print NIV .....	2/6/04	2/19/04	Completed
HAMIL TON .....	2-print NIV .....	2/10/04	2/19/04	Completed
LUXEMBOURG .....	2-print NIV .....	2/11/04	2/27/04	Completed
PORT OF SPAIN .....	2-print NIV .....	2/11/04	3/5/04	Completed
ASUNCION .....	2-print NIV .....	2/11/04	2/24/04	Completed
AUCKLAND .....	2-print NIV .....	2/11/04	2/27/04	Completed
CASABLANCA .....	2-print NIV .....	2/11/04	2/24/04	Completed
HONG KONG .....	2-print IV .....	2/18/04	2/26/04	Completed
NIAMEY .....	2-print NIV .....	2/18/04	3/4/04	Completed
SYDNEY .....	2-print NIV .....	2/19/04	3/3/04	Completed
ASHGABAT .....	2-print NIV .....	2/25/04	3/9/04	Completed
NICOSIA .....	2-print NIV .....	2/25/04	3/10/04	Completed
SANTO DOMINGO .....	2-print NIV and IV .....	2/25/04	3/16/04	Completed
MANAMA .....	2-print NIV .....	3/1/04	3/15/04	Completed
BEIRUT .....	2-print NIV .....	3/3/04	3/17/04	Completed
OUAGADOUGOU .....	2-print NIV .....	3/3/04	3/16/04	Completed
PHNOM PENH .....	2-print NIV .....	3/3/04	3/15/04	Completed
RANGOON .....	2-print NIV .....	3/3/04	3/16/04	Completed
HANOI .....	2-print NIV .....	3/4/04	3/18/04	Completed
FRANKFURT .....	2-print IV .....	3/9/04	3/17/04	Completed
BEIJING .....	2-print NIV .....	3/11/04	4/2/04	
BRIDGETOWN .....	2-print NIV and IV .....	3/11/04	4/2/04	

## CONSULAR AFFAIRS Biometric Installations Schedule for NIV and IV—Continued

Post	Biometric Implementation	Start	Finish	Comment
GABORONE .....	2-print NIV .....	3/15/04	3/30/04	
ALGIERS .....	2-print NIV and IV .....	3/17/04	3/31/04	
LJUBLJANA .....	2-print NIV .....	3/17/04	3/31/04	
NOUAKCHOTT .....	2-print NIV .....	3/17/04	3/31/04	
SKOPJE .....	2-print NIV and IV .....	3/17/04	3/31/04	
SAN SALVADOR .....	2-print IV .....	3/22/04	4/1/04	
BAMAKO .....	2-print NIV .....	3/24/04	4/7/04	
SARAJEVO .....	2-print NIV .....	3/24/04	4/9/04	
YEREVAN .....	2-print NIV .....	3/24/04	4/8/04	
PRAGUE .....	2-print NIV and IV .....	3/24/04	4/9/04	
PRAIA .....	2-print NIV and IV .....	3/29/04	4/12/04	
ACCRA .....	2-print NIV and IV .....	3/31/04	4/20/04	
GUAYAQUIL .....	2-print NIV and IV .....	3/31/04	4/16/04	
QUITO .....	2-print NIV .....	3/31/04	4/16/04	
HO CHI MINH CITY .....				
KIEV .....	2-print NIV and IV .....	4/1/04	4/27/04	
DUBLIN .....	2-print NIV and IV .....	4/7/04	4/21/04	
ISLAMABAD .....	2-print IV .....	4/17/04	4/16/04	
TEL AVIV .....	2-print IV .....	4/7/04	4/21/04	
BELIZE CITY .....	2-print IV .....	4/17/04	4/13/04	
MADRID .....	2-print IV .....	4/12/04	4/20/04	
MSTERDAM .....	2-print NIV and IV .....	4/12/04	5/5/04	
HELSINKI .....	2-print NIV and IV .....	4/12/04	4/30/04	
JERUSALEM .....	2-print NIV and IV .....	4/13/04	4/26/04	
GUANGZHOU .....	2-print IV .....	4/14/04	4/20/04	
ANTANANARIVO .....	2-print NIV and IV .....	4/19/04	5/7/04	
BANGKOK .....	2-print NIV and IV .....	4/21/04	5/6/04	
LAGOS .....	2-print IV .....	4/21/04	4/30/04	
SINGAPORE .....	2-print IV .....	4/21/04	4/30/04	
RIO DE JANEIRO .....	2-print NIV and IV .....	4/21/04	15/6/04	
ABU DHABI .....	2-print NIV and IV .....	4/22/04	5/20/04	
TUNIS .....	2-print IV .....	4/23/04	5/4/04	
ULAANBAATAR .....	2-print NIV and IV .....	4/26/04	5/12/04	
TEGUCIGALPA .....	2-print NIV .....	4/26/04	5/7/04	
BELFAST .....	2-print NIV and IV .....	4/28/04	5/14/04	
CARACAS .....	2-print NIV .....	4/28/04	5/12/04	
DOHA .....	2-print NIV and IV .....	4/28/04	5/19/04	
LONDON .....	2-print IV .....	4/28/04	5/4/04	
MANAMA .....	2-print IV .....	4/28/04	5/25/04	
TBILISI .....	2-print IV .....	5/3/04	5/12/04	
YAOUNDE .....	2-print IV .....	5/3/04	5/12/04	
PORT MORESBY .....	2-print IV .....	5/3/04	5/12/04	
BOGOTA .....	2-print NIV and IV .....	5/4/04	5/18/04	
BUENOS AIRES .....	2-print NIV and IV .....	5/5/04	5/28/04	
ALMA TV .....	2-print NIV and IV .....	5/5/04	5/28/04	
SANAA .....	2-print IV .....	5/5/04	5/11/04	
COLOMBO .....	2-print IV .....	5/6/04	5/13/04	
HARARE .....	2-print NIV and IV .....	5/7/04	5/24/04	
SHANGHAI .....	2-print NIV and IV .....	5/10/04	5/24/04	
PARAMARIBO .....	2-print NIV .....	5/10/04	5/21/04	
JAKARTA .....	2-print NIV and IV .....	5/11/04	5/26/04	
NAIROBI .....	2-print IV .....	5/12/04	5/21/04	
NASSAU .....	2-print NIV and IV .....	5/12/04	5/28/04	
LISBON .....	2-print NIV and IV .....	5/12/04	5/28/04	
VIENTIANE .....	2-print NIV and IV .....	5/13/04	6/4/04	
CAIRO .....	2-print NIV and IV .....	5/13/04	5/28/04	
DAR ES SALAAM .....	2-print IV .....	5/18/04	5/27/04	
LOME .....	2-print NIV and IV .....	5/19/04	6/1/04	
ZAGREB .....	2-print NIV and IV .....	5/19/04	6/2/04	
CHENGDU .....	2-print NIV .....	5/19/04	6/3/04	
KINGSTON .....	2-print NIV .....	5/20/04	6/4/04	
	2-print NIV and IV .....	5/20/04	6/18/04	

## CONSULAR AFFAIRS Biometric Installations Schedule for NIV and IV—Continued

Post	Biometric Implementation	Start	Finish	Comment
KUWAIT .....	2-print IV .....	5/24/04	6/11/04	
NAPLES .....	2-print NIV and IV .....	5/24/04	6/16/04	
JOHANNESBURG .....	2-print IV .....	5/26/04	6/4/04	
STOCKHOLM .....	2-print NIV and IV .....	5/26/04	6/10/04	
BELGRADE .....	2-print NIV and IV .....	5/31/04	6/18/04	
MONTEVIDEO .....	2-print NIV and IV .....	5/31/04	6/16/04	
PANAMA CITY .....	2-print IV .....	5/31/04	6/9/04	
ANKARA .....	2-print IV .....	6/1/04	6/11/04	
ATHENS .....	2-print NIV and IV .....	6/2/04	6/25/04	
BUCHAREST .....	2-print NIV and IV .....	6/2/04	6/18/04	
SANTIAGO .....	2-print NIV and IV .....	6/2/04	6/18/04	
MAJURO .....	2-print NIV .....	6/2/04	6/16/04	
BIDJAN .....	2-print NIV and IV .....	6/3/04	6/18/04	
BRASILIA .....	2-print NIV .....	6/7/04	6/30/04	
SOFIA .....	2-print NIV and IV .....	6/7/04	6/24/04	
LA PAZ .....	2-print NIV and IV .....	6/9/04	6/24/04	
DDIS ABABA .....	2-print NIV and IV .....	6/10/04	6/30/04	
SHENYANG .....	2-print NIV .....	6/10/04	6/23/04	
BUDAPEST .....	2-print NIV and IV .....	6/16/04	7/2/04	
DAMASCUS .....	2-print IV .....	6/16/04	6/25/04	
LILONGWE .....	2-print NIV and IV .....	6/16/04	6/28/04	
GUATEMALA CITY .....	2-print IV .....	6/16/04	6/22/04	
MANAGUA .....	2-print IV .....	6/16/04	6/25/04	
MANILA .....	2-print NIV and IV .....	6/16/04	7/13/04	
KIGALI .....	2-print NIV .....	6/21/04	7/2/04	
MONROVIA .....	2-print NIV and IV .....	6/21/04	7/6/04	
TIRANA .....	2-print NIV .....	6/21/04	7/2/04	
LUSAKA .....	2-print NIV and IV .....	6/23/04	7/7/04	
CONAKRY .....	2-print NIV .....	6/23/04	7/7/04	
GEORGETOWN .....	2-print NIV and IV .....	6/23/04	7/14/04	
REYKJAVIK .....	2-print NIV and IV .....	6/23/04	7/6/04	
SAN JOSE .....	2-print IV .....	6/23/04	7/2/04	
AMMAN .....	2-print IV .....	6/28/04	7/7/04	
LUANDA .....	2-print NIV .....	6/30/04	7/14/04	
DAKAR .....	2-print NIV and IV .....	7/7/04	7/22/04	
MATAMOROS .....	2-print NIV .....	7/7/04	7/30/04	BCC
TOKYO .....	2-print NIV and IV .....	7/7/04	7/30/04	
ASUNCION .....	2-print IV .....	7/7/04	7/13/04	
MBABANE .....	2-print NIV .....	7/7/04	7/13/04	
DJIBOUTI .....	2-print NIV and IV .....	7/8/04	7/23/04	
HAVANA .....	2-print NIV and IV .....	7/8/04	7/30/04	
SYDNEY .....	2-print IV .....	7/8/04	7/30/04	
NOGALES CONS/				
TPF .....	2-print NIV .....	7/12/04	7/30/04	BCC
HAMILTON .....	2-print IV .....	7/14/04	7/20/04	
MUMBAI .....	2-print NIV and IV .....	7/14/04	8/6/04	
NEW DELHI .....	2-print NIV and IV .....	7/14/04	7/30/04	
AUCKLAND .....	2-print IV .....	7/14/04	7/23/04	
BRUSSELS .....	2-print IV .....	7/14/04	7/23/04	
PORT-AU-PRINCE .....	2-print NIV and IV .....	7/14/04	8/4/04	
LIBREVILLE .....	2-print NIV and IV .....	7/15/04	8/2/04	
CHENNAI .....	2-print NIV and IV .....	7/21/04	8/6/04	
OSAKA-KOBE .....	2-print NIV .....	7/21/04	8/6/04	
BAGHDAD .....	2-print NIV .....	7/26/04	8/6/04	Tentative dates
WARSAW .....	2-print NIV and IV .....	7/26/04	8/11/04	
CALCUTTA .....	2-print NIV and IV .....	7/28/04	8/11/04	
VANCOUVER .....	2-print IV .....	7/28/04	8/3/04	
MERIDA .....	2-print NIV .....	8/2/04	8/20/04	BCC
SEOUL .....	2-print NIV and IV .....	8/2/04	8/20/04	
KRAKOW .....	2-print NIV .....	8/2/04	8/17/04	
OSLO .....	2-print NIV and IV .....	8/4/04	8/20/04	

## CONSULAR AFFAIRS Biometric Installations Schedule for NIV and IV—Continued

Post	Biometric Implementation	Start	Finish	Comment
PARIS .....	2-print NIV and IV .....	8/4/04	8/27/04	
BANGUI .....	2-print NIV .....	8/4/04	8/20/04	
LONDON .....	2-print NIV .....	8/4/04	8/17/04	
MEXICO CITY .....	2-print NIV .....	8/4/04	8/24/04	BCC
MONTERREY .....	2-print NIV .....	8/4/04	8/25/04	BCC
RANGOON .....	2-print IV .....	8/4/04	8/10/04	
VILNIUS .....	2-print NIV .....	8/5/04	8/20/04	
VIENNA .....	2-print NIV and IV .....	8/11/04	8/26/04	
COTONOU .....	2-print IV .....	8/11/04	8/17/04	
GUADALAJARA .....	2-print NIV .....	8/11/04	9/1/04	BCC
NUEVO LAREDO				
CONSITPF .....	2-print NIV .....	8/11/04	8/31/04	BCC
ROME .....	2-print NIV and IV .....	8/12/04	8/25/04	
KATHMANDU .....	2-print NIV and IV .....	8/16/04	8/27/04	
PONTA DELGADA	2-print NIV and IV .....	8/16/04	9/1/04	BCC
TIJUANA CONS ...	2-print NIV .....	8/16/04	8/20/04	BCC
NAHA .....	2-print NIV .....	8/18/04	9/2/04	
KINSHASA .....	2-print IV .....	8/18/04	8/25/04	
TIJUANA TPF .....	2-print NIV .....	8/23/04	8/27/04	BCC
COPENHAGEN .....	2-Print IV .....	8/25/04	9/10/04	
MUSCAT .....	2-print IV .....	8/25/04	9/3/04	
CASABLANCA .....	2-print IV .....	8/25/04	9/3/04	
PHNOM PENH .....	2-print IV .....	8/25/04	9/1/04	
IAIPEI .....	2-print NIV and IV .....	8/30/04	9/24/04	
CIUDAD JUAREZ				
CONS .....	2-print NIV and IV .....	9/1/04	9/21/04	
HERMOSILLO .....	2-print NIV .....	9/1/04	9/17/04	BCC
DHAKA .....	2-print IV .....	9/1/04	9/7/04	
CIUDAD JUAREZ				
TPF .....	2-print NIV .....	9/6/04	9/15/04	BCC
NIAMEY .....	2-print IV .....	9/8/04	9/17/04	
OUAGADOUGOU ..	2-print IV .....	9/8/04	9/14/04	
SUVA .....	2-print IV .....	9/8/04	9/17/04	
MOSCOW .....	2-print IV .....	9/15/04	9/24/04	
PORT OF SPAIN ...	2-print IV .....	9/15/04	9/24/04	
NICOSIA .....	2-print IV .....	9/17/04	9/28/04	
MONTREAL .....	2-print IV .....	9/21/04	9/30/04	
KUALA LUMPUR ..	2-print IV .....	9/22/04	10/1/04	

Question: 2. At how many of these posts will you assign additional personnel to assist in this processing?

Answer: For Fiscal year 2004, The Bureau of Consular Affairs created 80 additional overseas positions to meet both increased workload and overseas biometrics requirements. In addition, CA will have established 186 new officer positions over a three-year period ending in fiscal year 2005 to replace consular associates as adjudicators.

Question: 3. Is there sufficient staffing in State Department consular offices to carry out the visa issuance process, including interviews, US-VISIT enrollment and relevant security checks without causing delays in the visa issuance process.

a. If not, how many additional consular officers are necessary?

b. Is there a need for additional facilities or a change in the facility?

If so, where and what facilities are required?

c. What is the impact on customer service?

Answer: a. The Bureau of Consular Affairs recently created additional consular positions in order to compensate for the expanded workload brought about by enhanced security procedures and biometric collection. These positions will allow efficient visa processing in most cases with few significant delays.

b. Many of our consular sections overseas operate without adequate space. To ensure continued efficient and secure visa processing, the State Department will require additional funding for the construction of new overseas facilities with sufficient consular workspace to meet existing demand and growth.

c. Without adequate secure consular workspace, it is not possible to deploy sufficient numbers of additional staff in future to meet increased demand for visa services. The result will inevitably be longer wait times for visas, decreased waiting room space for visa applicants and inconvenience to business travelers, students and tourists.

**Question: 4. Please provide the Committee with a list of consulates currently collecting biometric information and the types of data being collected, how the information is collected and the time required to collect the information.**

**Answer:** The attachment indicates the consulates that are currently (as of March 10) collecting biometric information for nonimmigrant and immigrant visas. The biometrics collected are two index fingerprints and a digitized photo. We also collect biographic data such as name, gender, and birth date that must be associated with this biometric information.

We collect biometric data during an in-person interview process at the consulate. The process begins by the applicant supplying biographic data and a photo. The biographic data is entered into a database and the photo is captured electronically and added to the applicant's record. The applicant's biographic information is sent to the CLASS database to determine whether a lookout exists.

The applicant then goes to the interview window where a Foreign Service Officer (FSO) or a cleared and trained Eligible Family Member (EFM) verifies the photo image. Next, the applicant is directed to supply two index fingerprints using an electronic fingerprint scanner located on the other side of the window in full view of the FSO or EFM. The fingerprints and photo are then sent electronically to DHS' IDENT database to determine whether they match existing lookouts.

An FSO then verifies the biographic data, and interviews the applicant. CLASS results are nearly always available before the interview begins.

Following a review of IDENT and CLASS records, the applicant's documentation, and the interview responses the FSO then decides whether to issue a visa.

Based on field experience to date the time required to collect fingerprint data averages about 30 seconds per applicant.

#### Biometric Installations Completed as of 17 March 2004

Post	Biometric Implementation	Start	Finish	Comment
FRANKFURT .....	2-print NIV .....	9/11/03	10/1/03	Completed
BRUSSELS .....	2-print NIV .....	9/17/03	9/30/03	Completed
SAN SALVADOR .....	2-print NIV .....	9/22/03	10/3/03	Completed
MONTREAL .....	2-print NIV .....	10/6/03	10/22/03	Completed
CAIRO .....	2-print NIV .....	10/8/03	10/16/03	Completed
OTTAWA .....	2-print NIV .....	10/14/03	10/22/03	Completed
KAMPALA .....	2-print NIV .....	10/15/03	10/30/03	Completed
LAGOS .....	2-print NIV .....	10/15/03	11/5/03	Completed
DOHA .....	2-print NIV .....	10/20/03	11/3/03	Completed
ITALLINN .....	2-print NIV .....	10/20/03	11/3/03	Completed
RIGA .....	2-print NIV .....	10/22/03	11/6/03	Completed
HALIFAX .....	2-print NIV .....	10/24/03	11/7/03	Completed
ANCOUVER .....	2-print NIV .....	10/24/03	11/10/03	Completed
IA.BU DHABI .....	2-print NIV .....	10/27/03	11/10/03	Completed
FLORENCE .....	2-print NIV .....	10/27/03	11/14/03	Completed
BANGKOK .....	2-print NIV .....	10/29/03	11/21/03	Completed
COPENHAGEN .....	2-print NIV .....	10/31/03	11/14/03	Completed
RIYADH .....	2-print NIV .....	11/4/03	11/19/03	Completed
KUALA LUMPUR .....	2-print NIV .....	11/5/03	11/21/03	Completed
JERUSALEM .....	2-print NIV .....	11/5/03	11/21/03	Completed
ITEL AVIV .....	2-print NIV .....	11/5/03	11/28/03	Completed
IA.NKARA .....	2-print NIV .....	11/6/03	11/21/03	Completed
DUBAI .....	2-print NIV .....	11/10/03	11/26/03	Completed
PORT LOUIS .....	2-print NIV .....	11/10/03	11/21/03	Completed
KUWAIT .....	2-print NIV .....	11/11/03	11/24/03	Completed
MAPUTO .....	2-print NIV .....	11/12/03	11/25/03	Completed
KOLONIA .....	2-print NIV .....	11/12/03	11/24/03	Completed
MASERU .....	2-print NIV .....	11/12/03	11/26/03	Completed
SAN JOSE .....	2-print NIV .....	11/12/03	11/26/03	Completed
DAMASCUS .....	2-print NIV .....	11/17/03	12/2/03	Completed

## Biometric Installations Completed as of 17 March 2004—Continued

Post	Biometric Implementation	Start	Finish	Comment
TBILISI .....	2-print NIV .....	11/17/03	12/2/03	Completed
TORONTO .....	2-print NIV .....	11/19/03	12/9/03	Completed
CALGARY .....	2-print NIV .....	11/24/03	12/9/03	Completed
CHIANG MAI .....	2-print NIV .....	11/24/03	12/9/03	Completed
MOSCOW .....	2-print NIV .....	11/26/03	12/19/03	Completed
JEDDAH .....	2-print NIV .....	12/2/03	12/16/03	Completed
ASMARA .....	2-print NIV .....	12/3/03	12/16/03	Completed
B.S. BEGAWAN .....	2-print NIV .....	12/3/03	12/17/03	Completed
MUSCAT .....	2-print NIV .....	12/3/03	12/18/03	Completed
PANAMA CITY .....	2-print NIV .....	12/3/03	12/19/03	Completed
ISLAMABAD .....	2-print NIV .....	12/3/03	12/19/03	Completed
ISTANBUL .....	2-print NIV .....	12/3/03	12/17/03	Completed
MINSK .....	2-print NIV .....	12/3/03	12/16/03	Completed
TASHKENT .....	2-print NIV .....	12/4/03	12/19/03	Completed
MMAN .....	2-print NIV .....	12/5/03	12/23/03	Completed
CHISINAU .....	2-print NIV .....	12/8/03	12/19/03	Completed
KOROR .....	2-print NIV .....	12/8/03	12/19/03	Completed
SANAA .....	2-print NIV .....	12/8/03	12/24/03	Completed
QUEBEC .....	2-print NIV .....	12/11/03	12/23/03	Completed
BELIZE CITY .....	2-print NIV .....	1/5/04	1/16/04	Completed
BRATISLAVA .....	2-print NIV .....	1/7/04	1/23/04	Completed
WINDHOEK .....	2-print NIV .....	1/7/04	1/22/04	Completed
CAPE TOWN .....	2-print NIV .....	1n/04	1/20/04	Completed
BISHKEK .....	2-print NIV .....	1/8/04	1/16/04	Completed
SURABAYA .....	2-print NIV .....	1/14/04	1/28/04	Completed
YEKA TERINBURG .....	2-print NIV .....	1/14/04	1/29/04	Completed
DUBLIN .....	2-print NIV .....	1/14/04	1/27/04	Completed
MILAN .....	2-print NIV .....	1/15/04	1/28/04	Completed
BAKU .....	2-print NIV .....	1/22/04	2/4/04	Completed
DURBAN .....	2-print NIV .....	1/22/04	1/30/04	Completed
MELBOURNE .....	2-print NIV .....	1/22/04	2/4/04	Completed
RECIFE .....	2-print NIV .....	1/22/04	2/4/04	Completed
VALLETTA .....	2-print NIV .....	1/22/04	2/4/04	Completed
JAKARTA .....	2-print NIV .....	1/30/04	2/17/04	Completed
BANJUL .....	2-print NIV .....	2/2/04	2/13/04	Completed
HONG KONG .....	2-print NIV .....	2/2/04	2/13/04	Completed
SAO PAULO .....	2-print NIV .....	2/2/04	2/25/04	Completed
ST PETERSBURG .....	2-print NIV .....	2/2/04	2/20/04	Completed
VLADIVOSTOK .....	2-print NIV .....	2/2/04	2/9/04	Completed
YAOUNDE .....	2-print NIV .....	2/4/04	2/19/04	Completed
ALMA TY .....	2-print NIV .....	2/4/04	2/17/04	Completed
JOHANNESBURG .....	2-print NIV .....	2/4/04	2/20/04	Completed
N'DJAMENA .....	2-print NIV .....	2/6/04	2/18/04	Completed
PERTH .....	2-print NIV .....	2/6/04	2/17/04	Completed
SUVA .....	2-print NIV .....	2/6/04	2/19/04	Completed
HAMILTON .....	2-print NIV .....	2/10/04	2/19/04	Completed
LUXEMBOURG .....	2-print NIV .....	2/11/04	2/27/04	Completed
PORT OF SPAIN .....	2-print NIV .....	2/11/04	3/5/04	Completed
ASUNCION .....	2-print NIV .....	2/11/04	2/24/04	Completed
AUCKLAND .....	2-print NIV .....	2/11/04	2/27/04	Completed
CASABLANCA .....	2-print NIV .....	2/11/04	2/24/04	Completed
HONG KONG .....	2-print IV .....	2/18/04	2/26/04	Completed
NIAMEY .....	2-print NIV .....	2/18/04	3/4/04	Completed
SYDNEY .....	2-print NIV .....	2/19/04	3/3/04	Completed
ASHGABAT .....	2-print NIV .....	2/25/04	3/9/04	Completed
NICOSIA .....	2-print NIV .....	2/25/04	3/10/04	Completed
SANTO DOMINGO .....	2-print NIV and IV .....	2/25/04	3/16/04	Completed
MANAMA .....	2-print NIV .....	3/1/04	3/15/04	Completed
BEIRUT .....	2-print NIV .....	3/3/04	3/17/04	Completed
BERN .....	2-print NIV and IV .....	3/3/04	3/19/04	Completed
OUAGADOUGOU .....	2-print NIV .....	3/3/04	3/16/04	Completed
PHNOM PENH .....	2-print NIV .....	3/3/04	3/15/04	Completed

## Biometric Installations Completed as of 17 March 2004—Continued

Post	Biometric Implementation	Start	Finish	Comment
RANGOON .....	2-print NIV .....	3/3/04	3/16/04	Completed
HANOI .....	2-print NIV .....	3/4/04	3/18/04	Completed
FRANKFURT .....	2-print IV .....	3/9/04	3/17/04	Completed

**Question: 5. To date, how many fingerprints and photographs have been collected in consulates?**

**Answer:** As of March 10 we had 34,748,844 NIV photographs and 8,137,267 fingerprints in the Consular Consolidated Database. Of these fingerprints, 7,866,251 were collected from applicants in Mexico, primarily for Border Crossing Cards (BCCs), and 271,016 from applicants at posts where we began collecting fingerprints starting in September 2003.

**Question: 6. Are there any technical problems consulates encountered in implementing this technology?**

**Answer:** We believe that all problems are being effectively addressed and that there are no major issues. As with any new system, areas for improvements and refinements have been identified. For example, the quality of some of the fingerprints captured by consulates had been identified as an issue by DHS. The Department is addressing this issue through improvements both in training and technology. Technical improvements include replacing the fingerprint scoring software, the software that determines the quality of the captured fingerprint, to use the same software that is being used by DHS. We believe that this will significantly reduce or eliminate the fingerprint quality problem. We are also making other modifications to the system to streamline the fingerprint capture process. Training is another significant issue, and we are taking steps to emphasize the fingerprint quality in our training, and developing detailed monitoring reports to identify posts that have low quality.

Early in the startup process, the Department encountered several instances of communications/data exchange problems with DHS' systems. These problems appear to have been resolved by DHS and the current workload is being processed in an expeditious manner. As workload begins to increase as more consulates come on-line, the Department will continue to monitor the situation and coordinate resolution of any communications and/or data exchange problems with DHS.

**Question: 7. What is the makeup of the State Department team implementing biometric equipment at consular posts? How much interaction and guidance does this team receive from US-VISIT in DHS?**

**Answer:** Implementation of biometric equipment at all consular posts is done with the on-site assistance of a team of contractors supplemented by Foreign Service Officers and other State Department employees. The same contractor carrying out the installations also produces the software used for biometric collection.

Interaction with DHS takes place daily, primarily regarding software development and data exchange. As installation teams identify problems and possible improvements, we discuss these with DHS to ensure that any changes we make will not interfere with the efficient operation of the IDENT database. As more posts are brought on-line, we also coordinate closely with DHS on data exchange issues to ensure IDENT response times remain within agreed limits.

**Question: 8. Please advise us of which posts have stopped issuing same day visas either in the immigrant or nonimmigrant context due to this requirement. Please advise us if each post is experiencing a turn around time of seven to eight minutes for IDENT checks and of any time frames over or under this estimate.**

**Answer:** Most posts have been able to continue same day visa issuance despite the new biometric requirements. CA is pleased with the performance of the IDENT check, and the majority of the responses are within our time budget. However we are still in the early stages of this project and are at less than 25 percent of the anticipated volume. We are monitoring this very closely and overall are cautiously optimistic.

**Question: 9. Please provide us with any case examples of potential terrorists refused visas since January of 2004 under these procedures. In specific, please advise us of the number of visa refusals/denials under section 212(a)(3)(B) or 212(a)(3)(A)(ii).**



**Answer:** So far there have been no examples of potential terrorists refused visas since January of 2004 because they were identified as potential terrorists under the new biometric procedures.

From January 2001 through March 07, 2004, there were 18 visa applicants denied visas under Section 212(a)(3)(B) of the INA, and 12 applicants denied under section 212(a)(3)(A)(ii). They were initially identified as potential terrorists by name-based terrorist watchlist information that is included in the visa lookout system known as CLASS.

**Question: 10. Will the state Department be able to meet the congressional deadline of issuance of biometric visas?**

**Answer:** Yes, we will be able to meet the October 26, 2004 deadline.

**Question: What action will the State Department take if Visa Waiver Program participants are unable to meet congressional deadlines for machine-readable and biometric passports?**

**Answer:** By October 26, 2004, VWP countries must:

- Be producing *machine readable passports* (original deadline of 2003 waived by Secretary Powell and extended to October 2004);
- Have a "program in place" to produce biometric passports (mandated by Border Security Act);
- Be producing *biometric passports* (mandated by Border Security Act).

All VWP countries are now producing machine-readable passports. We expect that all but a few of the current VWP states will have a "program in place" to produce biometric passports. However, it is unlikely that any government participating in the VWP program will be in large-scale production of biometric passports by the deadline. ICAO's decision to make facial recognition technology the standard passport biometric was not made until May 2003, leaving countries only 17 months to bring a biometric passport from design to production. While the VWP country governments share a commitment to make this change, many of them are encountering the same problems being experienced by the Department of State in our efforts to embed biometrics into the US passport. The need to resolve these significant technical problems to embed biometrics is the cause of these delays, not lack of will on the part of the VWP countries. Most governments are likely to reach full production of passports with embedded biometrics by late 2005 or early 2006.

The US has played a leadership role in ICAO. We have had repeated meetings with VWP representatives to educate VWP governments about the requirements and deadlines. In December Secretary Powell sent a diplomatic note to the VWP countries regarding the criteria for certification of a biometric passport program and noting that there was no waiver for the production deadline. We are still receiving responses from those countries.

Travelers from VWP countries with passports issued on or after October 26, 2004 that do not contain biometrics will need visas to travel to the States. This means that the Department of State could be faced with an increase in demand of some 5.3 million visa applications in fiscal year 2005 and a somewhat smaller increase in fiscal year 2006 as VWP countries come into compliance with the legislative requirement. We estimate that we will be able to process only a fraction of that additional workload with current resources and that the surge in applications will result in long processing backlogs.

Secretary Powell and Secretary Ridge recently wrote Judiciary Committee Chairman Sensenbrenner to advocate the need for prompt action to get a legislative fix to the deadline and to advise him that they welcome the invitation to testify before the Committee on April 21 on the subject. If legislative relief does not occur, State has prepared aggressive contingency plans to mitigate partially the impact of the deadline. However, the Department will not be able to identify, and mobilize resources to meet 100 percent of the demand before the problem will be resolved by the production of biometric passports by the VWP nations. The economic costs to the U.S. economy could be substantial.

#### QUESTIONS AND RESPONSES FROM THE HONORABLE ASA HUTCHINSON

**Question: 1. Will you be able to meet the DMIA statutory requirements to collect arrival and departure information at the top fifty land ports of entry by December 2004?**

**Answer:** The US-VISIT strategy to meet the statutory guidelines of DMIA and other legislation is an incremental approach to implementation. On 5 January 2004, DHS implemented the first phase to collect biographic arrival data and biometric data upon entry in the air/sea environments. This functionality was successfully expanded to capture arrival biographic and biometric information during US-VISIT

processing in the passport control area in secondary of the 50 busiest land ports of entry by the DMIA mandated deadline of 31 December 2004. Please note, however, that the December 2004 deadlines imposed by DMIA require only the integration of arrival and departure information. To that end, US-VISIT is currently conducting exit pilot projects at several international airports and will expand exit data collection capabilities at land ports via additional pilot programs beginning no later than July 31, 2005.

**Question: 2. Please provide the Select Committee with an official list of ports of entry at which US-VISIT is operational and not operational. At ports where US-VISIT is not operational please provide a time line for full implementation of US-VISIT.**

**Answer:** The following lists all air and sea ports of entry at which US-VISIT is operational as of December 2004. On November 9, 2004, US-VISIT published a notice in the Federal Register (69 FR 64964) that lists the 50 largest land ports of entry where biometric screening at entry was implemented by December 31, 2004. A copy of that notice is attached.

*Airports*

Agana, Guam (Agana International Airport)  
 Aguadilla, Puerto Rico (Rafael Hernandez Airport)  
 Albuquerque, New Mexico (Albuquerque International Airport)  
 Anchorage, Alaska (Anchorage International Airport)  
 Andrews Air Force Base, Maryland  
 Albany, New York (Albany International Airport)  
 Aruba (Pre-Flight Inspection)  
 Atlanta, Georgia (William B. Hartsfield International Airport)  
 Austin, Texas (Austin Bergstrom International Airport)  
 Baltimore, Maryland (Baltimore/Washington International Airport)  
 Bangor, Maine (Bangor International Airport)  
 Bellingham, Washington (Bellingham International Airport)  
 Boston, Massachusetts (General Edward Lawrence Logan International Airport)  
 Brownsville, Texas (Brownsville/South Padre Island Airport)  
 Buffalo, New York (Greater Buffalo International Airport)  
 Calgary, Canada (Pre-Flight Inspection)  
 Chantilly, Virginia (Washington Dulles International Airport)  
 Charleston, South Carolina (Charleston International Airport)  
 Charlotte, North Carolina (Charlotte/Douglas International Airport)  
 Chicago, Illinois (Chicago Midway Airport)  
 Chicago, Illinois (Chicago O'Hare International Airport)  
 Cincinnati, Ohio (Cincinnati/Northern Kentucky International Airport)  
 Cleveland, Ohio (Cleveland Hopkins International Airport)  
 Columbus, Ohio (Rickenbacker International Airport)  
 Columbus, Ohio (Port Columbus International Airport)  
 Dallas/Fort Worth, Texas (Dallas/Fort Worth International Airport)  
 Del Rio, Texas (Del Rio International Airport)  
 Denver, Colorado (Denver International Airport)  
 Detroit, Michigan (Detroit Metropolitan Wayne County Airport)  
 Dover/Cheswold, Delaware (Delaware Airpark)  
 Dublin, Ireland (Pre-Flight Inspection)  
 Edmonton, Canada (Pre-Flight Inspection)  
 El Paso, Texas (El Paso International Airport)  
 Erie, Pennsylvania (Erie International Airport)  
 Fairbanks, Alaska (Fairbanks International Airport)  
 Fajardo, Puerto Rico (Diego Jimenez Torres Airport)  
 Fort Lauderdale, Florida (Fort Lauderdale Executive Airport)  
 Fort Lauderdale, Florida (Fort Lauderdale/Hollywood International Airport)  
 Fort Myers, Florida (Fort Myers International Airport)  
 Freeport, Bahamas (Pre-Flight Inspection)  
 Greenville, South Carolina (Donaldson Center Airport)  
 Hamilton, Bermuda (Pre-Flight Inspection)  
 Hartford/Springfield, Connecticut (Bradley International Airport)  
 Honolulu, Hawaii (Honolulu International Airport)  
 Houston, Texas (Houston International Airport)  
 Indianapolis, Indiana (Indianapolis International Airport)  
 International Falls, Minnesota (Falls International Airport)  
 Isla Grande, Puerto Rico (Isla Grande Airport)  
 Jacksonville, Florida (Jacksonville International Airport)  
 Juneau, Alaska (Juneau International Airport)

Kansas City, Kansas (Kansas City International Airport)  
 Kenmore, Washington (Kenmore Air Harbor)  
 Key West, Florida (Key West International Airport)  
 King County, Washington (King County International Airport)  
 Kona, Hawaii (Kona International Airport)  
 Laredo, Texas (Laredo International Airport and Laredo Private Airport)  
 Las Vegas, Nevada (McCarran International Airport)  
 Los Angeles, California (Los Angeles International Airport)  
 Manchester, New Hampshire (Manchester Airport)  
 Mayaguez, Puerto Rico (Eugenio Maria de Hostos Airport)  
 McAllen, Texas (McAllen Miller International Airport)  
 Memphis, Tennessee (Memphis International Airport)  
 Miami, Florida (Kendall/Tamiami Executive Airport)  
 Miami, Florida (Miami International Airport)  
 Milwaukee, Wisconsin (General Mitchell International Airport)  
 Minneapolis/St. Paul, Minnesota (Montreal, Canada (Pre-Flight Inspection))  
 Nashville, Tennessee (Nashville International Airport)  
 Nassau, Bahamas (Pre-Flight Inspection)  
 New Orleans, Louisiana (New Orleans International Airport)  
 New York, New York (John F. Kennedy International Airport)  
 Newark, New Jersey (Newark International Airport)  
 Norfolk, Virginia (Norfolk International Airport and Norfolk Naval Air Station)  
 Oakland, California (Metropolitan Oakland International Airport)  
 Ontario, California (Ontario International Airport)  
 Opa Locka/Miami, Florida (Opa Locka Airport)  
 Orlando, Florida (Orlando International Airport)  
 Orlando/Sanford, Florida (Orlando/Sanford Airport)  
 Ottawa, Canada (Pre-Flight Inspection)  
 Philadelphia, Pennsylvania (Philadelphia International Airport)  
 Phoenix, Arizona (Phoenix Sky Harbor International Airport)  
 Pittsburgh, Pennsylvania (Pittsburgh International Airport)  
 Ponce, Puerto Rico (Mercedita Airport)  
 Portland, Maine (Portland International Jetport Airport)  
 Portland, Oregon (Portland International Airport)  
 Portsmouth, New Hampshire (Pease International Tradeport Airport)  
 Providence, Rhode Island (Theodore Francis Green State Airport)  
 Raleigh/Durham, North Carolina (Raleigh/Durham International Airport)  
 Reno, Arizona (Reno/Tahoe International Airport)  
 Richmond, Virginia (Richmond International Airport)  
 Sacramento, California (Sacramento International Airport)  
 Salt Lake City, Utah (Salt Lake City International Airport)  
 San Antonio, Texas (San Antonio International Airport)  
 San Diego, California (San Diego International Airport)  
 San Francisco, California (San Francisco International Airport)  
 San Jose, California (San Jose International Airport)  
 San Juan, Puerto Rico (Luis Munoz Marin International Airport)  
 Sandusky, Ohio (Griffing Sandusky Airport)  
 Sarasota/Bradenton, Florida (Sarasota-Bradenton International Airport)  
 Seattle, Washington (Seattle/Tacoma International Airport)  
 Shannon, Ireland (Pre-Flight Inspection)  
 Spokane, Washington (Spokane International Airport)  
 St. Croix, Virgin Island (Alexander Hamilton International Airport)  
 St. Louis, Missouri (St. Louis International Airport)  
 St. Lucie, Florida (St. Lucie County International Airport)  
 St. Petersburg, Florida (St. Petersburg-Clearwater International Airport)  
 St. Thomas, Virgin Island (Cyril E. King International Airport)  
 Tampa, Florida (Tampa International Airport)  
 Teterboro, New Jersey (Teterboro Airport)  
 Toronto, Canada (Pre-Flight Inspection)  
 Tucson, Arizona (Tucson International Airport)  
 Vancouver, Canada (Pre-Flight Inspection)  
 Victoria, Canada (Pre-Flight Inspection)  
 West Palm Beach, Florida (Palm Beach International Airport)  
 Wilmington, North Carolina (Wilmington International Airport)  
 Winnipeg, Canada (Pre-Flight Inspection)  
 Yuma, Arizona (Yuma International Airport)  
*Seaports*  
 Long Beach, California

Miami, Florida  
 New York City  
 Port Everglades, Florida  
 Port Canaveral, Florida  
 Port Canaveral, Florida (Terminal 10)  
 San Juan, Puerto Rico  
 San Pedro, California  
 Seattle, Washington (Cruise Terminal)  
 Seattle, Washington  
 Tampa, Florida (Terminal 3)  
 Tampa, Florida (Terminal 7)  
 Vancouver, Canada (Ballantyne Pier)  
 Vancouver, Canada (Canada Place)  
 Victoria, Canada (Pre Inspection)  
 West Palm Beach, Florida

**3. We understand that entry and exit enhancements at land borders will be phased in throughout 2005 and 2006. Provide a description of what enhancements are planned at land borders, including whether enhancements are new construction or renovation of existing land border facilities.**

**Answer:** By 31 December 2004, US-VISIT entry processing will be implemented at the 50 busiest land ports of entry and to all 165 land ports of entry (POEs) by 31 December 2005 in secondary inspection.

Modification to entry and exit facilities is needed to accommodate the technology required to implement the US-VISIT process. These modifications may best be described as upgrades where new equipment, power, conduit, and data connectivity are required to support the mission. These upgrades will include facility renovations and alterations to support the technology integration that will occur as the processes and technologies mature. These enhancements are focused on providing functionality to interior locations (typically secondary, or passport control, areas). Following this initial operating capability, modification to vehicle entry and exit lanes will be needed to expedite legitimate travel and trade. In addition, US-VISIT will begin pilot programs at 5 ports of entry by July 31, 2005, utilizing radio frequency identification technology in order to document the exits and any subsequent re-entries of persons both on foot and in vehicles.

The US-VISIT program does not anticipate that the implementation of the new process will result in additional delays at land borders, but is mindful of the concerns expressed by various individuals and organizations. The US-VISIT program has been meeting with various community groups along the border to discuss their concerns. The US-VISIT program anticipates utilizing advanced technology to meet statutory requirements as we move into the future in order to facilitate travel.

**Question: 4. In your testimony you stated that US-VISIT was "linked" to the Terrorist Screening Center. Please provide a detailed description of this "link". It is our understanding that while US-VISIT uses data from the TSC which is resident in the NCIC, there is no actual real time link to the TSC as the TSC has not yet set up its own database. What is the eventual operational relationship you envision between US-VISIT and the TSC?**

**Answer:** It is correct that any TSC biographic record in NCIC queries TECS for every traveler coming into country. TSC terrorist prints from FBI IAFIS are also available if the FBI has provided said prints via the link to IDENT. We note, however, that currently there does not exist a real time link to the TSC. Our technical team is currently working with the TSC in order to further refine our mutual data sharing.

**Question: 5. What checks are being conducted against passenger manifests for arriving passengers at air and seaports?**

**Answer:** Prior to arrival, information on passengers (including name, date of birth, and document (passport/visa type and number) is checked using the TECS/IBIS system

**Question: 5.1. Who conducts these checks and how long do they take?**

**Answer:** The TECS/IBIS checks are performed after departure from the foreign port and prior to arrival at the U.S. port of entry by the Customs and Border Protection (CBP) passenger analysis units located at each port of entry. The exact time needed to conduct these checks will depend upon the number of passengers, the number of officers to perform the checks, and the results of each check. However, since they are performed after departure and prior to arrival, they have no effect on passenger wait times. If a potential hit is made, the traveler will be flagged for further review. This same protocol is followed for passengers arriving on cruise ships.

Question: **5.2. What specific checks do these include?**

**Answer:** TECS/IBIS contains data derived from a variety of sources. These include, but are not limited to, the following:

- DHS immigration lookout data—NAILS;
- Department of State terrorist and visa refusal data (CLASS and TIPOFF);
- DHS alien detention and removal information (DACS);
- Drug Enforcement Administration (DEA) data; and
- Provides a conduit to the FBI's wants and warrants and criminal information database (NCIC).

Question: **5.3. What specific databases, systems and watch lists does IBIS interface or integrate?**

**Answer:** See the answer for Q01537(2) above.

Question: **6. What checks are being conducted against passenger manifests for arriving passengers at air and seaports?**

**Answer:** See answer to Q01537.

7. We understand that the self-service, automatic kiosks allowing a departing foreign visitor to automatically register their departure by scanning their visa and capturing a fingerprint. In scanning the visa, we understand that the proposed system will only read the information on the visa that is within the machine-readable zone. This is despite the fact that Congress has appropriated funds to increase the security of the U.S. visa by impeding security features (ink, laminate. etc.) so as to make the visa more tamper resistant.

Question: **7.1. Is it indeed the case that the kiosks are not yet scanning and authenticating the special security features that are imbedded in the U.S. visa?**

**Answer:** At this time, yes. However, the scan of a U.S. nonimmigrant visa is for the collection of biographic information in order to provide a specific identifier to the biometric also collected at the kiosk. The machine-readable zone of a visa or a passport can be used. The biometric and biographic information from exit are then matched to the information collected at entry, confirming the identity of the individual.

Question: **7.2. If the kiosks are not scanning and authenticating the special security features, does the Department plan to eventually do so? If so, when?**

**Answer:** There are no specific plans to incorporate authentication of the U.S. non-immigrant visa into the exit process, as the use of the visa for departure is only needed to speed up the biometric matching of a person's identity to the biographic and biometric information collected during entry. DHS confirms the identity of the visa holder against government held records, through the biometric match of the individual.

Question: **8. What are the current alternatives for exit control being considered at air and seaports?**

Question **8.1. What is the schedule for such exit controls being put in place at our air and seaports beyond the current one air and one sea port?**

**Answer:** A pilot test of alternative exit biometric collection devices began in the summer of 2004 at 15 locations (13 air and 2 seaports) and will continue until the end of March 2005. Once the device(s) is selected, deployment to the remaining departure locations will be completed. DHS anticipates that, depending on the receipt of funding and necessary approvals, this deployment will be completed in 2005.

Question: **8.2. What are the staffing and infrastructure needs for such implementation?**

**Answer:** The staffing and infrastructure needs will be assessed as part of the pilot evaluation. Depending on the device or devices chosen, the needs may vary.

Question: **8.3. What database checks will occur upon exit in this system?**

**Answer:** As with the entry process, checks will be made against systems in the US-VISIT environment. These include the Automated Biometric Identification System (IDENT), a fingerprint biometric database and against extracts provided through the FBI's Integrated Automated Fingerprint Identification System (IAFIS). (Note however that the IAFIS checks are currently not run in real time.) Additionally, the information will be transmitted to the Arrival Departure Information System (ADIS) to confirm the exit of an individual.

Question: **8.4. How will the public be educated on the measures to take to comply with this system?**

**Answer:** The US-VISIT program has a robust outreach effort in place to educate visitors and explain US-VISIT procedures for both entry and exit. In addition to providing information to our international stakeholders in the travel and tourism industry and the business community, we are working with the media in the visa waiver countries to have them help us educate foreign visitors. We have provided information to our colleagues in the Department of State Consular Affairs Offices overseas so that they, too, can explain the required exit process.

We have also produced print materials. When foreign visitors arrive in the United States, they receive a card (exit card) that explains the requirement to check out upon departing the country. When the visitor leaves the country, he or she goes to the airline ticket counter to check in for the flight and the ticket agent hands him or her an exit card that explains the process and directs the traveler to an exit station to check out. There will be directional signs visible to lead the way once a visitor is through the Transportation Security Administration (TSA) security check point, and educational signs will be located near the exit stations to explain what to do to check out. And finally, an announcement will be made at the departure gates to remind visitors to check out before boarding the plane.

**Question: 8.5. What efforts have you made so far for this public information campaign?**

**Answer:** The public education campaign for exit has been coordinated with stakeholders through speaking events, e-mails, trade shows, and meetings. We have provided these valuable stakeholders with the information they need to tell their customers what to expect when they arrive in and depart from the United States. We have produced exit cards, educational signs, and directional signs.

Additionally, the entry and exit requirements are incorporated into the general US-VISIT materials, which include brochures, airport signage, and on-board handouts in multiple languages; in-flight videos in 15 languages; and public service announcements (PSA) being aired in airport lounges.

Finally, a growing group of more than 500 stakeholders receive US-VISIT information on a regular basis through our e-newsletter.

**Question: 8.6. Has a policy been established to determine penalties for those who are determined to have violated the terms of their visa through US-VISIT?**

**Answer:** An alien who fails to comply with the departure requirements may be found in violation of the terms of his or her admission, parole, or other immigration status. This rule states that an alien who is covered by the requirements to provide biometrics on departure at new 8 CFR 215.8 may be found to have overstayed the period of his or her last admission if the available evidence indicates that he or she did not leave the United States when required to do so. A determination that the alien previously overstayed may result in a finding of inadmissibility for accruing prior unlawful presence in the United States under section 212(a)(9) of the INA, provided that the accrued unlawful time and other prerequisites of that statute are met, or that the alien is otherwise ineligible for a visa or other authorization to re-enter the United States. An overstay finding could also trigger consequences for a nonimmigrant visa holder under section 222(g) of the INA. If the person is deemed to have overstayed his authorized period of admission, his visa (including a multiple entry visa) would be deemed void under section 222(g). Section 222(g) further states that where a visa is void because the alien overstayed, he or she is ineligible to be readmitted to the United States as a nonimmigrant except on another visa issued in the consular office located in the country of the alien's nationality, or where there is no DOS office in the country, in such other consular office as the Secretary of State shall specify. The requirement of obtaining a new visa from the consular office in the country of the alien's nationality may be waived where extraordinary circumstances are found. 8 U.S.C. 1202(g). The Department intends to focus its enforcement of departure requirements in this rule on cases where the alien willfully and unreasonably fails to comply with this regulation. The rule provides that an alien's failure to follow the departure procedures may be considered by an immigration or consular officer in making a discretionary decision on whether to approve or deny the alien's application for a future immigration benefit. The rule does not, however, state that an alien's failure to comply with departure procedures in every instance will necessarily result in a denial of a future visa, admission or other immigration benefit. For example, no alien will be penalized for failing to provide biometrics on departure where the Department has not yet implemented the departure facilities or procedures at the specific port where the person chooses to depart. There may well be instances where a consular officer or inspector, in his or her discretion and after reviewing the totality of the circumstances, determines that an

alien's previous failure to comply with the departure procedures does not result in a finding of inadmissibility or the denial of an immigration benefit.

**Question: 9. Is any integration or discussion going on with TSA to possibly coordinate the Exit component with their plans to use electronic boarding passes during security checks? Is it possible to unite this process with the US-VISIT Exit to ensure that visa holders are "checked-out?"**

**Answer:** US-VISIT is collaborating among multiple government agencies, notably among the components of the Department of Homeland Security (DHS) and the Departments of State, Justice, Commerce, and Transportation to take positive steps toward greater information sharing. These partnerships are leveraging resources to improve data availability to all agencies. Specifically, DHS is looking for ways to partner with TSA to meet joint objectives and analyze current business processes.

The award of the prime integration contract to the Smart Border Alliance will allow the US-VISIT program to look at all aspects of a traveler's entry and exit process and determine integration points from operational and technical positions, which could include TSA's processes. TSA is an integral partner in the ongoing exit evaluations.

10. Ms. Harty testified that IDENT checks at the consulate were taking seven to eight minutes. A 001 Department of Justice Office of the Inspector General IG report indicates that an IDENT check takes an average of two minutes. US-VISIT enrollment takes ten to fifteen seconds. The US-VISIT office has indicated that certain biometric checks are conducted of US-VISIT enrollees after admission.

**10.1. Please advise what improvement has been made on the IDENT checks at ports of entry to allow a full IDENT check to occur in ten to fifteen seconds.**

**Answer:** The IDENT system is designed to be flexible and scalable. It is tuned to provide different response times for different operational requirements. For example, the system is sized to provide full lookout checks against a fingerprint database for every traveler entering an air and sea port of entry within 10 seconds. (In fact, the actual response time is nearer 5 seconds). Because the time constraints at the consular posts are different, IDENT is tuned to provide a response against the lookout database and the US-VISIT (all individuals enrolled) database in less than 15 minutes. Finally, IDENT is tuned to check newly enrolled individuals within a set period of time after admission. For future admissions, the individual is checked "one to one" against a previously established unique record. At this time, we do not believe it is necessary or feasible to run new enrollments against all IDENT records, including those previously enrolled, within the primary inspection process.

**10.2. Please clarify the nature of the actual check if a less than full IDENT biometric check is conducted at enrollment.**

**Answer:** Upon enrollment into US-VISIT, resulting either from a Department of State visa application or at a port of entry, a full check is performed against the lookout database and the US-VISIT database of enrolled travelers. When the individual arrives at the port of entry, her/his identity is confirmed against a previously enrolled identity, and a full lookout check is performed.

**10.3. What actual portion of the IDENT database is checked within this ten to fifteen second period?**

**Answer:** Please note that it is the time it takes to collect the two index prints from a traveler that is 10 to 15 seconds. This action is performed anytime IDENT is queried, regardless of which business process is being performed. Once the fingers are scanned, the IDENT system will return a one-to-one match instantaneously, and a lookout check in less than 10 seconds at primary.

**Question: 11. A May 2003 report the Department of Justice Office of the Inspector general indicated that the IDENT and IAFIS integration was "at least two years behind schedule" and that staff focused on the integration were redirected to the NSEERS project. What is the current status of IDENT and IAFIS integration? What is needed to expedite the integration?**

**Answer:** DHS has begun the deployment of the integrated IDENT/IAFIS workstations. This provides for rapid identification of individuals with outstanding criminal warrants through electronic comparison of ten-print digital finger scans against a vast nationwide database of previously captured fingerprints. The newly advanced capability allows simultaneously search the FBI's fingerprint database—the Integrated Automated Fingerprint Identification System (IAFIS)—and DHS's Automated Biometric Identification System (IDENT). As of September 2004, integrated IDENT/IAFIS terminals with ten-print biometric identification technology was operational in every U.S. Customs and Border Protection (CBP) Border Patrol

station throughout the country. This deployment was completed months ahead of schedule, and was expanded to include secondary inspection locations at all 115 air and sea ports of entry and the 50 busiest land ports of entry. The secondary inspection air, sea, and land port deployment was completed in November 2004.

In addition, in FY 2005 appropriations language, Congress directed the US-VISIT Program Office to report on the status of achieving real time interoperability between IDENT and IAFIS, including steps DHS will take to integrate IAFIS into IDENT, funds needed, and a time table for full integration. While the integrated workstations will permit a simultaneous search of IAFIS and IDENT, they will not allow local, state and other IAFIS users to access DHS repositories. The language also directs DHS to address recommendations in the Department of Justice Inspector General report. US-VISIT expects to submit this report in spring 2005.

**The current biometrics being used at selected air and sea ports of entry call for two fingerprints and a photograph of the foreign national. While the Administration has maintained that it is currently in "increment one" in a four stage process and it may likely move towards using a ten-print system, will using two-prints impact the agency's ability to capture individuals who are listed in the Federal Bureau of Investigation's database, which uses ten-prints?**

**Answer:** US-VISIT is currently able to perform checks against FBI provided data utilizing the two fingerscan system. This ability has already resulted in the identification of individuals, who were wanted or had past criminal violations. As of 1/26/2005, approximately 2,300 persons have been flagged at ports of entry as having a hit against a lookout system. Note however that the presence of a hit does not automatically render the person ineligible for admission. The Department of State has also flagged over 5,000 persons as hits when the individuals were applying for a nonimmigrant visa overseas.

Although there was some early concern about false positives in a two-print scenario, a recent National Institute of Standards and Technology (NIST) study of the US-VISIT IDENT system showed that the false positive or False Acceptance Rate (FAR) appears to rise in a consistent manner with the rise in the size of the fingerprint database. This has been born out empirically. The FAR has proved to be measurable and consistent. To deal with this, US-VISIT has developed processes to efficiently manage the false positives as they occur. For example, of the roughly 35,000 travelers who are processed through the US-VISIT IDENT system every day, about 30 of travelers are identified with a false positive against the lookout list and are sent to secondary. The average time for a fingerprint examiner to clear a lookout false positive is about three and a half minutes.

The NIST report cited here (C. L. Wilson, M.D. Garriss, C.I. Watson. Matching performance for the US-VISIT IDENT system using flat fingerprints. NISTIR 7110) provides the justification for the statements given about FAR. The answer neglects to cite the results from another NIST report (R.A. Hicklin, H. Korves, B. Ulery, M. Zoepfl, M. Bone, P. Grother, R. Micheals, S. Otto, C. Watson. Fingerprint Vendor Technology Evaluation (FpVTE) 2003. NISTIR 7123) which clearly found that increasing the number of fingerprints used in matching from two to eight would substantially improve TAR (True Accept Rate) and substantially reduce FRR (False Reject Rate).

The performance of the US-VISIT IDENT system is monitored very closely. As the FAR rises with the size of the database, the US-VISIT program office will make the necessary adjustments in the numbers of fingerprint examiners and in the technology (which may or may not include adding additional fingers) to manage this.

The current two-print capture provides the ability to match against appropriate records that are maintained by the FBI and provided daily to US-VISIT. This is done on a routine basis. There is no difficulty matching the two prints collected by US-VISIT against the 10 prints provided by the FBI.

**12. Please advise us of when and if you anticipate that an accurate Integrated Automated Fingerprint Identification System (IAFIS) check could be conducted at time of US-VISIT enrollment.**

**Answer:** 12. At this time there are no plans to conduct such a check. Checking every traveler against all the fingerprints available is not operationally feasible, both because of the time it takes to capture 10 prints and the time it takes for the FBI to respond to the queries. The capture of two prints takes between 10 to 15 seconds. Results are returned to an inspector within two to 10 seconds - well within the current time it takes to do an inspection. Even in a controlled environment with a willing subject, experience has shown that the capture time for taking 10 prints is anywhere from six to 10 minutes. Currently, the results take two to 10 minutes.



DHS modeling has shown that even a few seconds can have a catastrophic effect upon wait times.

The answer that “capture time for taking 10 prints is anywhere from six to 10 minutes” would be correct for ten rolled fingerprints. NIST has never recommended the capture of rolled fingerprint as part of the US-VISIT system. The NIST recommendation is “To perform background identifications, ten plain image impressions should be used for enrollment and retention.” The collection of plain impressions has been demonstrated at NIST in approximately 20 seconds. Pilot tests by the Department of State in Mexico have collected ten plain impressions in one minute or less. Collection of ten plain prints does not require physical contact with the operator of the collection system.

**Question: 12.1. What are the current rates of false positives in this scenario?**

**Answer:** According to the National Institutes of Standards and Technology (NIST) both two prints and 10 prints have a very high degree of accuracy. Both have a True Acceptance Rate (TAR) of over 95 percent (a measure of false negative). The US-VISIT IDENT system has TAR of 96 percent. What this means in practical terms is that if an individual wishes to enter the country under a new name using a fraudulent document, she/he would have to pass the Department of State visa issuance and pre-entry processes, including checks against lookout databases, the normal inspections process, and then that person would only have a 3.5 percent chance of avoiding identification through biometric means. (Overseas, a person would first be measured against TAR as part of the DOS nonimmigrant visa issuance process, then again when applying for admission to the United States.)

The NIST report cited here (C.L. Wilson, M.D. Garriss, C.I. Watson. Matching performance for the US-VISIT IDENT system using flat fingerprints. NISTIR 7110) provides the justification for the statements give about TAR of 96 percent. As with question 11, the answer neglects to cite the results from another NIST report (R.A. Hicklin, H. Korves, B. Ulery, M. Zoepfl, M. Bone, P. Grother, R. Micheals, S. Otto, C. Watson. Fingerprint Vendor Technology Evaluation (FpVTE) 2003. NISTIR 7123) which clearly found that increasing the number of fingerprints used in matching from two to eight would substantially improve TAR and reduce the chance of avoiding identification through biometric means.

False positives or the False Acceptance Rates (FAR) for the US-VISIT IDENT system have proved to be measurable and consistent. To deal with this issue, US-VISIT has developed processes to efficiently manage the false positives as they occur. For example, of the roughly 35,000 travelers who are processed through the US-VISIT IDENT system every day, about 30 of them are false positives against the lookout list and are sent to secondary. On the rare occasion that there is a false positive, the average time for a fingerprint examiner to clear a lookout false positive is only 3 minutes and 40 seconds. And as already noted in answer to question 1548, the expanded deployment of the IDENT/IAFIS program to all secondary inspection and Border Parole stations allows our agents to simultaneously search both these data bases in instances where we suspect that people are attempting to enter the United States illegally.

**Question: 12.2. What is the current timeline and cost for such integration?**

**Answer:** As there is no operational need, and because the cost would prove prohibitive (in systems, facilities, and personnel), there is no plan to perform 10-print IAFIS checks for US-VISIT. However, NIST cannot comment on the projected cost of this integration but NIST studies of both the IDENT and IAFIS systems show that this integration would reduce the chance of avoiding identification through biometric means.

**Question: 14. How can inaccurate data in databases which US-VISIT is interfacing and integrating be collected by a member of the public subject to such errors?**

**Question: 14.1. Will you consider a contact through which such corrections could be made?**

**Question: 14.2. Has there been any thought to establishing a contact point at all field operation offices to correct erroneous admission documents issued at ports of entry?**

**Answer:** US-VISIT has established a redress process, giving travelers processed through US-VISIT a fast and easy way to have their US-VISIT records accessed and checked for accuracy, relevancy, timeliness, or completeness. The first stage in the process occurs at the primary inspection lane at the port of entry and provides immediate data correction by the U.S. Customs and Border Protection (CBP) officer. The CBP officer can correct the traveler's name, date of birth, flight information,

and country-specific document number and document type errors. Biometric errors are sent to US-VISIT for correction. Travelers no longer at the POE can contact the US-VISIT privacy officer, who has set a goal of processing redress requests within 20 business days. With almost six million travelers processed through US-VISIT, only 33 individuals have contacted the Privacy Officer about their records. The US-VISIT redress process is available at [www.dhs/us-visit.gov](http://www.dhs/us-visit.gov) and the US-VISIT privacy officer can be contacted by telephone, fax or a new email address at [usvisitprivacy@dhs.gov](mailto:usvisitprivacy@dhs.gov).

**Question: 15. How is CLAIMS III being accessed during US-VISIT?**

**Answer:** DHS has created an interface between CLAIMS 3 and a component of the US-VISIT environment. This ensures that information about pending immigration benefit applications, approved or denied, is available to make determinations about whether someone is lawfully in the country or has overstayed her/his admission.

**Question: 16. Will Mexican biometric border crossing card holders be subject to enrollment in US-VISIT?**

**Answer:** Mexican nationals who present a Form DSP-150, B-1/B-2 visa and border crossing card (BCC) upon arrival in, or departure from, the United States, and who are not required to be issued a Form 1-94 Arrival Departure Record at the time of admission, are exempt from the US-VISIT biometric data collection requirements. This means that Mexican nationals who will travel beyond 25 miles of the border (75 miles if admitted in Arizona) or who will remain longer than 30 days are subject to the US-VISIT biometric data requirements. This exemption may change when the Department explores a longterm solution to record the entry and exit of visitors crossing our land ports of entry.

**Question: 17. Is it possible to integrate data that the State Department has on biometric border crossing card users into the US-VISIT database?**

**Answer:** Yes. We have included this task in the FY 2005 US-VISIT Expenditure Plan.

**Question: 18. How many land ports of entry have scanners to read biometric passports and visas?**

**Answer:** All ports of entry have optical character recognition (OCR) scanners to read machine-readable passports, visas, and other travel documents. In addition, 51 land border ports of entry have scanners to read the optical memory stripe of border crossing cards and alien registration cards. While the standards governing biometric passports have been developed, issues surrounding global interoperability, durability, skimming, and eavesdropping on personal data are in the process of being resolved. The Department of Homeland Security in conjunction with US-VISIT, ICAO, NIST, ISO, and others, tested chips and readers for e-passports/visas in July 2004 at the National Biometrics Security Project Laboratory in Morgantown, West Virginia. This was followed by a mock test at BWI airport in November 2004. Based on the findings of these tests, plans are now being developed for a live test, most likely at Los Angeles International Airport in June 2005.

**Question: 19. How many inspection lanes (passenger, mass transit, commercial, pedestrian) currently exist at our land ports at each crossing? Please provide a list of this data?**

**Answer:** There are 165 land ports of entry, of which there are 490 inbound primary noncommercial lanes, 176 primary commercial lanes, and 118 primary pedestrian lanes. Attached is a spreadsheet with a breakdown by port of entry.

**20. How many of the above inspection lanes have the capacity to take fingerprints, which will be read against any portion of IDENT or any other biometric database? Please advise of which ones have this capacity.**

**Answer:** This function is not performed at primary lanes, but at all 165 land ports, this function can be performed in secondary inspection in support of primary/enforcement activities.

21. We understand that the State Department has refused to collect the Student and Exchange Visitor Information System (SEVIS) fee on behalf of the Department of Homeland Security (DHS).

**Question: 21.1. Have negotiations continued with the State Department on fee collection?**

**Answer:** The Department of State (DoS) and DHS have been working on fee collection methods. Specifically, DHS proposed a pilot project to have DoS collect the fee for DHS in China and India, where access to credit cards and local postal services may be limited. Both the Under Secretary for Border and Transportation Security, Asa Hutchinson and Assistant Secretary for Consular Affairs, Maura Harty agreed

to investigate the viability of the proposal. The proposal suggested leveraging the DoS relationship with local financial institutions to establish a collection process in China and to use the same collection process as the visa fee for the SEVIS fee at the embassies and consulates in India. This collection process would include allowing the student or exchange visitor to pay in local currency. DHS and DoS have formed a working group to evaluate this option and identify points of concern for further consideration. Discussions are ongoing on this issue.

**Question: 21.2. Because the proposed rule has no convenient way in which to pay the SEVIS fee, what has DHS done in order to make this easier for the student?**

**Answer:** There is, in fact, a convenient way to pay the SEVIS fee. SEVIS fee payment statistics illustrate that the students and exchange visitors are not having problems paying the fee. Of the SEVIS fees collected to date, 96 percent have been made via credit card. The Student Exchange Visitor Program (SEVP) established several fee payment options that were available beginning on September 1 for fee collection. Students and exchange visitors have the option to pay with a check by mail, with a credit card or debit card via the Internet, or by third-party payment, such as through batch payment whereby sponsors pay for an entire group of individuals, or where the student selects a friend or relative to pay the fee on his or her behalf. SEVP continued to review alternate payment methods that would allow the student or exchange visitor to pay in local currency. Through no additional cost to the program, on November 1 SEVP instituted a new fee payment option with Western Union. This payment method allows applicants to pay the fee in local currency in over 130 countries where Western Union offers their QuickPay™ option. SEVP's relationship with the DoS Office of Consular Affairs—who quickly alerted overseas Posts to accept Western Union receipts as proof of payment—made this option possible. These payment methods are working well. However, when problems with fee payment do arise, SEVP has established the SEVIS fee Case Resolution Unit (CRU) to provide individual assistance. SEVP is aware of fee payment problems in Nigeria and Ghana, but those cases only represent approximately 1 percent of the total student/exchange visitor population. Western Union is expected to expand to Nigeria, resolving fee payment problems there by the end of 2005. SEVP is committed to ensuring that all students and exchange visitors are able to pay the fee, and will resolve these cases individually.

**Question: 21.3. Why isn't DHS collecting this fee once a foreign student enters into the United States and has access to a United States bank? Would this be a viable option for DHS?**

**Answer:** Congress mandated that the SEVIS fee be paid prior to visa issuance. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) requires the collection of information relating to nonimmigrant foreign students and exchange visitors and provides for the collection of the required fee to defray the costs. The initial 1999 proposed fee rule required that educational institutions and exchange visitor program sponsors collect the fee, based upon then-existing law, and mandated that the fee be collected prior to visa issuance. Congress subsequently amended the law to permit DHS to collect the fee directly from the F-1, F-3, J-1, M-1, or M-3 nonimmigrants, but did not change the requirement that the fee be collected prior to visa issuance. Based upon these amendments to the law, the Final Rule provided for fee collection by DHS and required that proof of payment be presented during the visa application process, as was intended by Congress. SEVP recognizes that fee payment prior to visa issuance can be a hardship for those students and exchange visitors who are denied a visa; therefore, SEVP established a policy to honor the initial fee payment for those students and exchange visitors who re-apply for a visa within a period of 12 months.

**Question: 21.4. If this requires a change in the law would DHS be receptive to a legislative fix?**

**Answer:** In principle, DHS does not object to exploring the possibility of changing the law to allow for fee payment after the nonimmigrant enters the United States. However such change may generate unique and unforeseen problems for fee collection and processing, such as how to guarantee fee payment. This issue would need to be fully analyzed to determine the impacts on the program. If the student or exchange visitor is given the option to pay the fee upon entry to the United States, currently there is no mechanism that would enforce the payment requirement.

**Question: 21.5. Is it true that the SEVIS fee has been lowered for a group of students (summer work travel/au pairs) to \$35.00, and not any other group that may spend a limited amount of time in the United States such as a student participating in a six week Intensive English Program?**

**Answer:** Yes. Congress specified that the fee be reduced for only three categories of exchange visitors (Camp Counselors, Summer-work/Travel, and Au Pairs). Further, IIRIRA section 641 provides that an alien seeking J-1 status to participate in an exchange visitor program that is sponsored by the Federal government is exempt from paying a fee. DHS has clarified that those potential J-1 exchange visitors exempt from the fee as participants in a Federal government sponsored exchange visitor program are those participating in an exchange visitor program with a program identification designator prefix of G-1, G-2, or G-3. Some comments received on the proposed fee rule suggested that other students and exchange visitors should be exempt from the fee. Similarly, a number of comments suggested that the fee for other programs be reduced below \$100 to mirror the reduction that Congress expressly provided to certain J-1 participants, including lower fees for short-term English language programs, for all English language programs, for some or all short-term programs, for commuter students, and for secondary school students. As noted in the Final Rule, Congress specifically exempted from the SEVIS fee only J-1 non-immigrants who are participating in an exchange visitor program sponsored by the Federal government, and explicitly reduced it only for certain other J-1 non-immigrants. DHS interpreted the Congressional mandate such that no other groups of nonimmigrants should be exempt from the SEVIS fee or have a reduced SEVIS fee based upon the principle of *expressio unius est exclusion alterius*: when one or more things of a class are expressly mentioned, others of the same class are necessarily excluded.

**Question: 21.6. Is this \$100 fee not a disincentive for short-term study abroad in the United States when other countries not only have much less stringent visa requirements, less denial rates but also much lower fees?**

**Answer:** A number of comments received on the proposed rule suggested that the fee would deter participation of foreign students and exchange visitors in United States programs. However, the statistical evidence on the number of foreign students and exchange visitors recorded in SEVIS does not support the argument that the \$100 fee is a disincentive to study in the United States. Between 2003 and 2004, SEVIS has seen a slight increase in the number of students and exchange visitors in the United States. The SEVIS fee was implemented on September 1, 2004. If it were a disincentive to students and exchange visitors we would potentially see a decline in the number of students and exchange visitors coming to the United States. Additionally, compared with the overall cost of a U.S. education or participation in an exchange visitor program, the SEVIS fee does not significantly increase the financial burden on foreign students and exchange visitor program participants. It is possible, however, that the fee might deter the participation of students and exchange visitors with the most limited resources, particularly those from the least developed countries. While DHS acknowledges this reality, the statute mandating the implementation of the fee allows for no specific fee reductions, exemptions, or delayed payments based upon a nonimmigrant's available resources or the infrastructure limitations of his or her country. Further, intending F, M, and J non-immigrants are required by DHS and DoS regulations to provide evidence of sufficient financial resources to support themselves throughout their program. When considering the average cost of a temporary stay in the United States, including all related program costs, DHS does not believe that the SEVIS fee presents a burden sufficient to act as a deterrent to F, M, or J program participation. DHS notes that many schools and exchange visitor program sponsors, as well as other interested third party organizations (such as advocacy groups), already make special efforts to assist these nonimmigrants. DHS commends and encourages this assistance and, to facilitate such assistance, DHS will accept fee payments from third parties.

**Question: 21.7. Why has this not been implemented for all short term study groups, and not just the summer work-study group?**

**Answer:** Same answer as in Question 5 (QO1562).

**Question: 21.8. Could a blanket rule of three months study or less be implemented for reducing the fee to \$35?**

**Answer:** DHS does not believe that this is a viable option, for two reasons. First, Congress mandated that SEVP be a fully fee-funded program and that the SEVIS fee be collected specifically to defray the costs associated with the program. Reducing the fee for a significant number of nonimmigrants would force DHS to increase the fee amount for other nonimmigrants in order to offset the reduction. Second, costs for administration of the program and the processing of non immigrants occur mostly up-front in the process and do not vary based on the length of time that the nonimmigrant is in the United States. Consequently, it is appropriate to spread the cost of the program as equally as possible among all of the participants.

**Question: 22. What is the current make up of the US-VISIT staff? Is current staffing sufficient to manage, implement and oversee the US-VISIT program?**

**Answer:** The current staffing level for US-VISIT is 115 federal positions. We are currently in process of hiring up to the 115 positions.

**Question: 23. We understand that US-VISIT may collect a different biometric for future use. Is this correct and which type of biometric does DHS expect to use in the long term.**

**Answer:** Currently, US-VISIT uses fingerscans and digital photographs. Other biometrics are being assessed, not only by US-VISIT but also by other DHS components, for potential use.

**Question: 24. Who will have access to US-VISIT biometric information?**

**Answer:** By collecting the appropriate biographic, biometric, and other immigration related information at the first contact with an individual, and sharing the information in a timely manner with appropriate decision makers, those charged with ensuring the integrity of our immigration system can make better decisions. These decision makers include consular officials from the Department of State, Customs and Border Protection officers, Immigration and Customs Enforcement agents, and U.S. Citizenship and Immigration Services officers from the Department of Homeland Security.

This critical information on foreign nationals must be shared, , with other law enforcement and intelligence agencies as they, too, bear responsibility for protecting our country. This information is shared appropriately with law enforcement and intelligence agencies.

**Question: 25. Will information be removed from US-VISIT when an individual becomes a US-citizen? How will removal of that information be accomplished?**

**Answer:** US-VISIT currently retains the information collected for a defined duration (100 years for ADIS and 75 years for IDENT), even if the individual later becomes a United States citizen. However, as US-VISIT matures and decisions are made regarding whether the existing systems will be integrated, modernized, and/or retired, the data retention periods for US-VISIT data will be reviewed and adjusted to reflect the redefined needs of the Department. One of US-VISIT's primary goals is to safeguard the personal information that is being collected in a way that is responsible and respectful of privacy concerns. The Department is achieving this goal by implementing a comprehensive privacy program that ensures personal information is protected from misuse and improper disclosure, and is destroyed when no longer needed for its stated purpose. DHS is committed to updating the US-VISIT database when a person becomes a U.S. citizen. DHS is currently working with USCIS."

**Question: 26. What has DHS done to promote information and educate travelers about US-VISIT? I agree that we need to keep track of who is coming into our country, but I am not sure that US-VISIT program will help us significantly in our effort to keep terrorists out of the country. When do you estimate that US-VISIT will be deemed "in place and fully functional?" Can you enlighten me on the benefits that we can expect in our war against terrorism when US-VISIT is "in place and fully functional?" (Jackson-Lee)**

**Answer:** US-VISIT has a robust outreach effort in place to educate visitors and to explain US-VISIT procedures for both entry and exit. In addition to providing information to international stakeholders in the travel and tourism industry and the business community, US-VISIT personnel are working with the media in visa waiver countries to educate foreign visitors. Information has been provided to the Department of State Consular Affairs offices overseas so that they can explain the required exit process as well. The campaign has identified the basic points of contact (touch points) to help ensure that foreign visitors are fully aware of US-VISIT's goals and procedures. The continuum begins overseas, with outreach to media and stakeholders, and collaboration with the State Department and visa-issuing posts. The outreach touch points continue through the journey to the U.S., arrival at the port of entry, and departure. Campaign materials are itemized and described below.

US-VISIT is enhancing the integrity of all aspects of immigration and border management processes while also providing a significant law enforcement benefit. The system has already begun to demonstrate its value as a law enforcement and national security tool. For example, through September 30, 2004:

- The system validated the identity and the authenticated documents of 1,931,550 aliens.

- Matches against biometric watch list records at entry resulted in 333 adverse actions, including matches for individuals convicted of rape, drug trafficking, manslaughter, federal prison escape, visa fraud and immigration violations.
- Recurrent biometric checks after entry identified 104 individuals who committed crimes, most notably rape, or otherwise violated their immigration status, generating leads to Immigration and Customs Enforcement (ICE) for possible removal from the United States.

**Question: 27. It will be enormously expensive to establish and fully implement US-VISIT. What security measures would you recommend if Congress provided the Department of Homeland Security with a matching amount of money to use for other purposes?(Jackson-Lee)**

**Answer:** The Administration is convinced that the money spent on US-VISIT is an extremely important investment in our nation's security. Congress should continue its support of US-VISIT. US-VISIT remains a top priority for DHS because it enhances security for our citizens and visitors while facilitating legitimate travel and trade across the borders. DHS deployed the first increment on time and within budget. During FY 2003, US-VISIT continued to make progress in achieving its mission by maintaining an aggressive implementation schedule. As a result, the US-VISIT program is reaching out to stakeholders in an organized fashion, complying with capital investment planning guidelines, and managing day-to-day activities in a controlled and effective manner.

**Question: 28. If US-VISIT had been "in place and fully functional" when the 9-11 terrorists entered the United States, would it have made any difference? Why or on what basis? (Jackson-Lee)**

**Answer:** It is always difficult to predict what might have happened. However, the USVISIT system, when fully implemented, will provide a comprehensive picture of most foreign nationals, and will be able to identify those who—like three of the September 11 th hijackers—have overstayed the terms of their visas. In addition, US-VISIT has already enhanced the integrity of the immigration system by identifying imposters. To the extent that this acts as a deterrent for others who may intend harm to our citizens and visitors, US-VISIT may have already dissuaded terrorists from exploiting our system.

Attachment for answer to Q01556:

Count	LOCY— NEW	LPOE NAME	ENTRY— Non— Commercial	Entry— Commercial	Entry— Pedestrian
1	SLU .....	San Luis .....	5	1	2
2	AND ....	Andrade .....	2	0	2
3	DOU ....	Douglas .....	7	0	2
4	LUK ....	Lukeville .....	3	0	1
5	MAP ....	Marisposa— Nogales West .....	4	2	1
6	NAC ....	Naco .....	2	1	1
7	NOG ....	Nogales East .....	6	0	6
8	SAS ....	Sasabe .....	1	0	1
9	PNH ....	Pittsburg .....	2	0	0
10	ABG ....	Alburg .....	1	0	0
11	ABS ....	Alburg Springs .....	1	0	0
12	BEB ....	Beebe Plain .....	1	0	0
13	BEE ....	Beecher Falls .....	2	1	0
14	CNA ....	Canaan .....	1	1	0
15	DER ....	Derby Line BS—1— 91 .....	4	1	0
16	DLV ....	Derby Line BS— Rte. 5 .....	2	0	0
17	ERC ....	East Richford— Richford Rte 105 ...	2	0	0
18	HIG ....	Highgate Springs .....	5	1	0
19	MOR ....	Morses Line— Franklin .....	1	0	0
20	NRN ....	Norton .....	2	1	0
21	NRT ....	North Troy .....	1	0	0

## Attachment for answer to Q01556:—Continued

Count	LOCY— NEW	LPOE NAME	ENTRY— Non— Commercial	Entry— Commercial	Entry— Pedestrian
22	PIV .....	Pinnacle Road—			
		Richford .....	2	0	0
23	DRIF ...	Richford Rte 139 ...	2	0	0
24	WBE ....	West Berkshire .....	2	0	0
25	BUR ....	Burke—Jamisons			
		Line .....	1	0	0
26	CHM ...	Champlain .....	7	3	0
27	CHT ....	Chateaugay .....	2	0	0
28	CHU ....	Churubusco .....	1	0	0
29	CNN ....	Cannon Corners ...	1	0	0
30	FTC .....	Fort Covington .....	2	0	0
31	MAS ....	Massena .....	4	1	0
32	MOO ...	Mooers .....	2	0	0
33	OGD ....	Ogdensburg .....	3	0	0
34	OVE ....	Overton Corners ...	4	0	0
35	ROU ....	Rouses Point—St.			
		Johns Hwy .....	3	0	0
36	TRO ....	Trout River .....	3	0	0
37	EPI .....	Eastport .....	3	1	0
38	PTL .....	Porthill .....	2	1	0
39	BWA ....	Boundary .....	1	0	0
40	DVL ....	Danville .....	1	0	0
41	FER ....	Curlew—Ferry .....	1	0	1
42	FWA ....	Frontier .....	1	0	0
43	LAU ....	Laurier .....	2	0	0
44	MET ....	Metaline Falls .....	2	0	0
45	NIG ....	Nighthawk .....	1	0	1
46	ORO ....	Oroville .....	2	0	0
47	ROO ....	Roosville .....	2	1	0
48	OTM ....	Otay Mesa—San			
		Diego .....	13	6	6
49	SYS .....	San Ysidro—San			
		Diego .....	24	0	16
50	TEC ....	Tecate .....	2	1	1
51	VAS .....	Virginia Avenue—			
		San Diego .....	0	0	0
52	BBM ...	B&M—Brownsville	4	2	2
53	BRO ...	Gateway—Browns-			
		ville .....	5	4	4
54	FAL ....	Falcon Heights ....	1	0	1
55	HID ....	Hidalgo .....	11	1	4
56	LOI ....	Los Indios .....	4	4	2
57	LSE ....	Los Ebanos .....	1	0	1
58	PGR ....	Progreso .....	4	2	2
59	PHR ....	Pharr .....	4	4	1
60	RIO .....	Rio Grande City ...	3	3	1
61	ROM ....	Roma .....	4	1	1
62	VIB .....	Los Tomates—			
		Brownsville .....	4	4	2
63	PRE ....	Presidio .....	3	2	1
64	LAR ....	Laredo AF—Con-			
		vent Street .....	4	0	3
65	LCB ....	Laredo—Columbia	4	3	1
66	LLB ....	Laredo—Lincoln—			
		Juarez .....	12	0	0
67	LWT ...	World Trade			
		Bridge—Laredo IV	0	8	1
68	BWM ...	Bridgewater .....	1	0	1
69	CAM ....	Calais—Milltown ..	1	0	0
70	CLS .....	Calais—Ferry			
		Point .....	2	1	0

## Attachment for answer to Q01556:—Continued

Count	LOCY— NEW	LPOE NAME	ENTRY— Non— Commercial	Entry— Commercial	Entry— Pedestrian
71	COB ....	Coburn Gore .....	2	1	0
72	EAS .....	Easton .....	1	0	0
73	EPT .....	Eastport .....	1	0	0
74	EST .....	St. Francis—Est Court .....	1	1	2
75	FOR .....	Forest City .....	1	0	1
76	FTF .....	Fort Fairfield .....	2	1	0
77	FTK .....	Fort Kent .....	2	1	0
78	HML .....	Hamlin .....	1	0	0
79	HTM ....	Houlton .....	6	2	0
80	JKM ....	Jackman .....	2	1	0
81	LIM .....	Limestone .....	1	1	0
82	LUB .....	Lubec .....	2	0	0
83	MAD ....	Madawaska .....	1	1	1
84	MTC ....	Monticello .....	1	0	1
85	ORI .....	Orient .....	1	0	1
86	SPA .....	St. Francis—St. Pamphille .....	1	1	2
87	SRL .....	Jackman—St. Aurelie .....	1	0	0
88	STD .....	St. Francis— Daaquam .....	1	1	0
89	VCB .....	Vanceboro .....	2	0	0
90	VNB ....	Van Buren .....	2	1	0
91	CHF ....	Chief Mountain ...	2	1	0
92	DLB .....	Del Bonita .....	1	1	0
93	GOA ....	Goat Haunt .....	0	0	1
94	MGM ...	Morgan .....	1	1	0
95	OPH ....	Opheim .....	1	1	0
96	PIE .....	Piegan .....	2	1	0
97	RAY .....	Raymond .....	1	1	0
98	SCO .....	Scobey .....	1	1	0
99	SWE ....	Sweetgrass .....	2	1	0
100	WCM ...	Willow Creek .....	1	0	0
101	WHI ....	Whitetail .....	1	1	0
102	WHM ...	Wild Horse .....	1	1	0
103	WHT ....	Whitlash .....	1	1	0
104	AMB ....	Ambrose .....	3	1	0
105	ANT .....	Antler .....	1	1	0
106	BAU ....	Baudette .....	2	1	0
07	CRA .....	Crane lake .....	1	1	0
108	CRY .....	Carbury .....	1	1	0
109	DNS .....	Dunseith .....	2	1	0
110	EIY .....	Ely .....	1	0	0
111	FRT .....	Fortuna .....	1	1	0
112	GPM .....	Grand Portage .....	2	1	0
113	HNN ....	Hannah .....	1	1	0
114	HNS ....	Hansboro .....	1	1	0
115	INT .....	International Falls	2	1	1
116	LAN .....	Lancaster .....	1	1	0
117	MAI .....	Maida .....	1	1	0
118	NEC ....	Neché .....	1	1	0
119	NOO ....	Noonan .....	1	1	0
120	NOY ....	Noyes .....	2	1	0
121	NRG ....	Northgate .....	1	1	0
122	PEM ....	Pembina .....	6	3	0
123	PIN .....	Pine Creek— Roseau .....	1	1	0
124	POR .....	Portal .....	1	3	0
125	ROS .....	Roseau .....	1	2	0
126	SAR .....	Sarles .....	1	1	0



## Attachment for answer to Q01556:—Continued

Count	LOCY— NEW	LPOE NAME	ENTRY— Non— Commercial	Entry— Commercial	Entry— Pedestrian
127	SHR .....	Sherwood .....	1	1	0
128	SJO .....	St. John .....	3	2	0
129	WAI .....	Walhalla .....	1	1	0
130	WAR .....	Warroad .....	1	1	0
131	WHO ...	Westhope .....	1	1	1
132	ANP .....	Antelope Wells .....	1	0	0
133	BOA ....	Bridge of the Americas (BOTA) El Paso .....	10	4	4
134	COL .....	Columbus .....	2	1	1
135	FAB .....	Fabens .....	2	0	1
136	FTH .....	Fort Hancock .....	1	0	1
137	PDN ....	Paso Del Norte— El Paso .....	10	0	8
138	SEL .....	Stanton Street Bridge .....	3	0	0
139	STR .....	Santa Teresa .....	2	2	1
140	YSl .....	Ysleta—El Paso ...	12	6	4
141	TUR .....	Turner .....	1	2	0
142	CAL .....	Calexico .....	10	0	4
143	IVP .....	Calexico East—Im- perial Valley .....	8	3	2
144	DCB ....	Detroit Amba- sador Bridge .....	10	7	0
145	DCT .....	Detroit Tunnel .....	9	0	0
146	PHU ....	Port Huron—Blue Water Bridge .....	8	6	0
147	SSM .....	Sault Ste. Marie ...	2	1	1
148	ADT .....	Amistad Dam .....	1	0	0
149	DLR .....	Del Rio .....	4	2	1
150	EGP .....	Eagle Pass .....	5	0	1
151	FDE .....	Eagle Pass II .....	6	2	1
152	LEW ....	Lewiston- Queenston Bridge	7	3	0
153	PBB .....	Peace Bridge— Buffalo .....	7	4	1
154	RAI .....	Rainbow Bridge— Niagara Falls .....	19	0	4
155	WHL ....	Whirlpool Rap- ids—Niagara Falls .....	3	0	1
156	THO ...	Alexandria Bay— Thousand Island ...	6	2	0
157	ALC .....	Alcan .....	2	1	0
158	DAC ....	Haines—Dalton Cache .....	1	1	0
159	SKA .....	Skagway .....	1	1	0
160	BLA .....	Peace Arch— Blaine .....	7	1	0
161	LYN .....	Lynden .....	3	2	0
162	PHY .....	Pacific Highway— Blaine .....	6	3	0
163	SUM ....	Sumas .....	4	2	0
164	PTR .....	Point Roberts .....	4	1	1
165	PKC .....	Poker Creek .....	1	0	1
		Total .....	490	176	118

## AIR TRANSPORT ASSOCIATION OF AMERICA, INC. RESPONSES TO QUESTIONS

**Question: 1. The US-VISIT Program is an extensive border management system that requires participation and cooperation from a wide variety of stakeholders. How has the Air Transport Association participated in the discussions leading up to the implementation of phase one of US-VISIT?**

**Answer:** ATA has participated extensively in discussions with DHS leading up to the implementation of phase one of US-VISIT. ATA's involvement dates back to working with and providing input to legacy-INS staff on the original "entry/exit" program. Coordination has continued with the creation of the Department of Homeland Security and the announcement of US-VISIT in early 2003. US-VISIT staff have availed themselves to ATA and our carriers for advice and to answer questions. During the Atlanta pilot, US-VISIT staff conducted weekly conference calls with stakeholders. In addition, US. VISIT worked very closely with Delta Air Lines and ATA for the Entry pilot that was conducted at Atlanta's Hartsfield/Jackson International Airport late last fall. ATA continues to work with US-VISIT on the Exit phase. Coordination on the Exit phase includes bi-monthly conference calls to discuss.

**Question: 2. In an effort to better prepare passengers for Exit requirements, would airlines be willing to hand-out the small information card with a passenger's boarding pass?**

**Answer:** Yes, ATA carriers would be willing to assist the government in whatever means possible to better prepare passengers for the Exit requirements. We would ask that an adequate, ongoing supply of the information card be provided to the carriers at the full expense of the government. The information cards also need to be printed in multiple languages to better serve our passengers.

**Question: 3. What are your recommendations for additional public outreach and education for US-VISIT?**

**Answer:** US-VISIT has done an effective job of putting together a public outreach and education effort for US-VISIT. Their efforts have included updating U.S. government websites (DHS, CBP, ICE, and the State Department) to include information on US-VISIT; working with the State Department to provide the embassies and consulates abroad the necessary materials and information; issuing press releases and providing material to the news media.

ATA recommends that DHS consider creating a link on their homepage specifically for US-VISIT that could have timely updates on entry/exit; the where's, what's and how's of the program; Exit locations (both cities and airports); and user friendly airport maps detailing the location's of the Exit kiosks and how to use them. There could also be information directed to passengers who are coming to the United States about what to expect when they go to U.S. embassies and consulates for their visas.

ATA also recommends that US-VISIT consider posting signs at departure gates in foreign airports informing passengers what to expect upon arrival into the United States. We would hope that DHS would work with foreign governments and/or the foreign airport authorities to provide signage as a customer service notification.

**Question: 4. Has ATA membership noticed additional passenger wait times during immigration and customs processing due to new US-VISIT data collection?**

**Answer:** ATA member airlines have not noticed significant increases in wait times during immigration and customs processing due to new US-VISIT data collection. We have been impressed with the coordination between US-VISIT and Customs and Border Protection (CBP) to ensure a careful and successful implementation of phase one. However, we will continue to monitor the issue as we move into the summer peak travel season which begins in April. Adequate levels of CBP inspectors on the primary lines are paramount to avoiding long lines in the FIS facilities which delay our passengers and could cause disruptions for airport operations.

**Question: 5. Current Federal law requires that by October 26, 2004, all Visa Waiver Program (VWP) countries must have capabilities to produce biometric passports in order to remain in the program. Concern has been expressed that many of the 27 VWP countries will be able to meet this deadline. Has ATA done any studies looking into the impact this deadline may have on the travel industry?**

**Answer:** No, ATA has not done any specific studies on how the October 26, 2004, deadline will affect the travel industry. However, in 2003, ATA was a strong advocate for delaying the October 1, 2003, requirement for all Visa Waiver Program travelers to have a valid Machine Readable Passport (MRP) for visa-free entry into the U.S. ATA was concerned that insufficient preparatory work had been completed and

that serious disruptions of the processing of visitors into the United States could occur. As you know, Secretary Powell exercised his waiver authority and extended the deadline to October 26, 2004—which now coincides with the requirement for VWP countries to begin producing biometric passports.

Many of the same issues surrounding the October 1, 2003, requirement for MRPs also apply to the upcoming October 26th date. State Department Assistant Secretary Maura Harty has testified several times that most VWP countries will not be capable of issuing passports with biometrics by the deadline. Premature implementation of the requirement will cause a great deal of confusion for the traveling public and will contribute to a world-view that travel to the United States is an unpleasant hassle. That will greatly discourage travel to the United States, which will significantly harm the national economy as well as the airline and travel and tourism industry.

#### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

##### QUESTIONS AND RESPONSES OF DENNIS A. CARLTON, DIRECTOR WASHINGTON OPERATIONS INTERNATIONAL BIOMETRIC GROUP

**Question: 1. The current biometrics being used at selected air and sea ports of entry call for two fingerprints and a photograph of the foreign national. While the Administration has maintained that it is currently in “increment one” in a four stage process and it may likely move towards using a ten-print system, will using two-prints impact the agency’s ability to capture individuals who are listed in the Federal Bureau of Investigation’s database, which uses ten prints?**

**Answer:** In the near term, the Department of Homeland Security’s decision to capture and match the flat impressions of the two index fingers of foreign nationals seems a practical compromise. To comply with the aggressive deadlines imposed by federal legislation and to achieve the programmatic milestones set by the Secretary of Homeland Security, the US-VISIT Program Office chose to implement technologies the department had successfully deployed in the recent past. Since it is an extension of the existing IDENT system, the two flat finger capture/matching solution being employed in US-VISIT Increment One is fully compatible with the two-print database format of IDENT. However, this means that the two flat fingers captured for US-VISIT will be subject to the same matching accuracy and throughput infirmities when searching against the rolled fingerprints contained in the Department of Justice’s Integrated Automated Fingerprint Identification System (IAFIS) as all other two-finger inquiries sent from IDENT.

Studies have shown that matching flat fingerprints against a database comprised of rolled fingerprints is not as accurate as matching rolled prints against rolled prints. The ‘disconnect’ between rolled and flat prints is not likely to be resolved by US-VISIT—forensics specialists will continue to prefer the additional data available from rolled prints while civil government applications like US-VISIT will use flat prints because they are much easier to capture.

Over the longer term, as the US-VISIT database grows to comprise tens of millions of records, two fingers will not provide sufficiently unique data to consistently return only one matching database record. As a consequence, queries are likely to begin returning several potential matching records, necessitating additional research to distinguish true from false matches. IBG and others in the biometrics industry believe that at least four or more fingers will need to be captured from each subject in order to maintain adequate matching accuracy and throughput. Individuals originally enrolled with just two fingerprints will need to be reenrolled using four or more fingers; this reenrollment could be accomplished when an individual appears for a visa renewal.

**Question: 2. You characterized the challenge of implementing biometric identifier at land ports of entry as “daunting,” yet surmountable. Could you elaborate on how this challenge could be overcome, both at the ports and “upstream,” keeping in mind that the largest ports are extremely busy, handling millions of entrants year-round?**

**Answer:** The key to successfully implementing biometric identification at land ports of entry is to provide multiple means by which travelers can be ‘pre-identified’ before they reach the point of primary inspection. IBG believes the vast majority of travelers will readily cooperate with ‘pre-identification’ programs so long as the enrollment process is considered reasonable and the enrolled traveler is provided expedited transit across the border. For instance, at the Peace Arch port of entry in Blaine, Washington almost 25% of annual border crossings are by enrollees in the joint U.S.-Canadian NEXUS alternative inspection program. Though NEXUS pro-

gram participants must submit to an extensive background investigation by both American and Canadian customs and immigration authorities, their reward is being able to cross the border using a dedicated lane that can reduce what sometimes can be an hour+ wait in regular lanes to just a few minutes.

Travelers should have several options for identifying themselves prior to reaching the land port primary inspection point. Biometric matching need not and, in fact, should not be performed for the first time at the point of inspection—the inspecting officer must not be distracted from conducting a thorough evaluation of the demeanor and behavior of the traveler. In pedestrian lanes, biometrics could be matched through a combination of active (fingerprint capture) and passive (facial image capture) methods as travelers pass through pre-inspection choke points. In vehicle lanes, fingerprint samples could be captured prior to the inspection position, using portable devices that can both read data from travel documents and match fingerprints from inside the vehicle.

U.S. citizens could be encouraged to register their travel documents (e.g., their drivers license, passport, or other form of ID) and biometric samples prior to their departure at kiosks located at the land ports and other government offices, such as post offices, throughout the border region. Upon their return to the U.S., registered travelers would be afforded the privilege of using expedited processing lanes.

**Question: 3. Based on what you have observed, to what extent has the US-VISIT program office given consideration to overcoming the challenge of implementing a biometric identifier at land ports of entry?**

**Answer:** The US-VISIT program office has evaluated several alternatives for employing biometrics at land ports of entry. The Departments of State and Homeland Security have accumulated extensive experience capturing and matching biometrics as part of the Border Crossing Card enrollment process. This past year, DHS conducted a pilot program to assess the practical issues associated with matching the biometric data recorded on the BCC with a live biometric sample provided by the cardholder. In addition, DHS has been acquiring biometric samples from and conducting background investigations of thousands of NEXUS and SENTRI cardholders. Biometric identification procedures will have to be both flexible and creative in order to accommodate the wide range of port configurations and environmental conditions at U.S. land ports of entry.

**Question: 4. How do you propose to best address the inevitable occurrences of “mistaken” or inadvertent biometric identity mismatches, especially from the perspective of safeguarding privacy?**

**Answer:** Experience acquired from Increment One of the US-VISIT program has shown that DHS already has implemented effective methods for quickly resolving biometric identity mismatches. As part of the Increment One technology upgrades at the primary inspection positions, inspection personnel now have access to significantly more traveler-related data from both DHS and DOS databases. For instance, primary inspectors can now access records from the Department of State’s Consolidated Consular Database to review the information upon which the DOS Foreign Service Officer adjudicated a visa application. When a biometric mismatch occurs, an inspector has real-time access to text data that can be used to quickly determine that the traveler’s documentation doesn’t match the record returned by the biometric search. Initial indications have shown that biometric mismatches have occurred at a rate far lower than had been predicted and that the primary inspector has resolved mismatch errors and sent the traveler on their way in an average of about one minute. Thus, travelers are subjected to minimal inconvenience and their privacy and dignity are protected.

PREPARED STATEMENT OF EDWARD K. PULTORAK, SENIOR CBP OFFICER, NTEU  
CHAPTER 111—LOSE ANGELES INTERNATIONAL AIRPORT

Chairman Camp, Ranking Member Sanchez, distinguished members of the Subcommittee; I would like to thank the subcommittee for the opportunity to testify on one of the Bureau of Customs and Border Protection’s (CBP) newest programs—*The U.S. Visitor and Immigrant Status Indicator Technology U.S. VISIT* program.

I am proud to have been part of Customs for over 32 years. In 1971, I started with Customs as one of the original sky marshals. In my capacity as a sky marshal I flew over 1 million miles on TWA Airlines over the course of three years. In 1974, I became a United States Customs Inspector at JFK International Airport in New York until 1976 when I then began working Customs pre-clearance in Bermuda for six years. In 1983, I started working as a Customs Inspector at Los Angeles International Airport (LAX) where I have worked during the past 21 years. In addition to my job as a Senior legacy Customs Inspector and now Senior CBP Officer, I have

been an employee representative for NTEU, proudly representing over 400 Customs personnel at LAX for over 10 years.

***U.S. VISIT PROGRAM AND CBP OFFICER TRAINING:***

The Immigration and Naturalization Service Data Management Improvement Act of 2000 (DMIA) P.L. 106-215 mandated the creation of an entry/exit system for non-U.S. citizens into and out of the United States that would record all arrival and departure information of every alien who crosses the U.S. border. This system is now known as U.S. VISIT.

While the official roll out of the U.S. VISIT program is only 3 weeks old, I would like to bring the subcommittee's attention a few concerns that legacy Customs and INS inspectors, such as my self, would like the subcommittee to be aware of with regard to the implementation and future use of the U.S. VISIT program.

On January 5, 2004 the U.S. VISIT program was introduced at 115 U.S. international airports and at 14 seaports of entry across the country, including my port of entry, Los Angeles International Airport (LAX), one of three busiest international airports in the country with approximately 8 million international passengers annually.

As has been stated by previous members on the panel, the U.S. VISIT program is intended to process visitors holding visas as they enter the United States. The U.S. VISIT technology uses scanning equipment to collect "biometric identifiers," such as fingerprints, in an inkless process, along with a digital photograph of the visitor. Together with the standard information gathered from a visitor about their identity and travel, the program is intended to verify the visitor's identity and compliance with visa and immigration policies. All data obtained from the visitor is then stored as part of the visitor's travel record. At exit points, visitors will check out at kiosks by scanning their visa or passport and repeating the simple inkless fingerprinting process. The exit confirmation will be added to the visitor's travel records to ensure compliance. It is my understanding that the U.S. VISIT program will be expanded to include the 50 busiest land ports of entry by December 31, 2004, and all U.S. ports of entry by December 31, 2005.

As the subcommittee is aware, on September 2, 2003, Secretary Tom Ridge announced the creation of a new CBP officer position and the "One Face at the Border" initiative. Under this plan, a new position, the Customs and Border Protection (CBP) Officer would combine the duties of legacy inspectors from Customs, INS and APHIS into a single front-line border security position at the 307 official ports-of-entry across the United States.

As some of my fellow Customs inspectors have testified at previous hearings, I and the legacy Customs employees I work with believe that combining the border protection responsibilities that were held by three highly-skilled specialists into a single front line inspector position continues to raise some serious concerns. Each of the job responsibilities from the three legacy inspection agencies is highly specialized and distinct. By utilizing one employee to perform all primary and secondary inspection function programs, including the new US-VISIT program, the agency is diluting the expertise that has made the United States border inspection personnel second to none.

Prior to the creation of the CBP officer position, legacy Customs inspectors received 9 to 12 weeks of intensive basic training on Customs Service rules and regulations alone. Under the new CBP officer training guidelines legacy inspectors, such as myself, will be transitioning into the new CBP officer position in the spring of this year by way of classroom training, CD-ROM computer teaching and on-the-job training for programs such as US-VISIT. While the new training will lead to a broader knowledge of the INS rules and regulations of entry for passengers entering the United States, there remains a concern among the employees I represent as to whether it will provide the specialized expertise necessary to ensure the successful accomplishment of the other traditional legacy Customs and INS anti-terrorism missions that are now part of the Department of Homeland Security.

Currently, legacy Customs and INS inspectors are "cross-trained" as to the most basic Customs and INS procedures for entry into the U.S. for passengers and goods. Traditionally, if a legacy Customs inspector was faced with a complicated visa entry situation at an airport or land border primary inspection station they had the ability to send the passenger to a more intensive secondary inspection where an experienced legacy INS inspector could make a determination as to the validity of a particular visa. It remains unclear as to whether experts in visa issues or other specific Customs and INS border protection matters will continue to be available for secondary inspection once the full implementation of the CBP officer training is completed for all legacy Customs personnel and new CBP Officers. I feel strongly that

specific expertise must be maintained, especially in light of the ramping up of the US-VISIT program to all 317 official ports of entry by the end of 2005.

With the recent introduction of the U.S. VISIT program the issue of staffing continues to be a concern. For example, at a number of airports across the country since the introduction of U.S. VISIT, legacy Customs inspectors who are highly trained in cargo inspection have been pulled from their current anti-terrorism cargo and passenger assignments to assist legacy INS inspectors by processing only low risk U.S. citizens and green card holders at airport immigration processing stations in order to maintain an acceptable flow of passengers in the international terminals. The CBP officers I represent hope that Congress will continue to provide additional CBP Officer staffing to enable legacy CBP Officers such as myself the ability to continue working in our areas of expertise to continue our traditional missions of facilitating legitimate trade and preventing terrorism.

Other issues of concern that have been raised by both the legacy Customs and INS personnel that I work with involve the current exemption of international travelers from countries who are part of the Visa Waiver Program (VWP) and how it relates to the U.S. VISIT program. In addition, there are also concerns about the use of only selected databases by the U.S. VISIT program.

Currently, the U.S. VISIT program applies only to foreign visitors seeking admission on non-immigrant visas but does not apply to visitors seeking admission from Canada and Mexico or countries participating in the Visa Waiver Program (VWP), or lawful permanent residents (green card holders). Also at this time, the U.S. VISIT program will not apply to foreign visitors seeking entry at land border ports of entry where over 81 percent of international passengers are processed. Currently, only 19 percent of international passengers are processed at air and sea ports of entry.

The fact that travelers from 27 countries who participate in the VWP and travelers entering through Canada and Mexico are currently exempt from U.S. VISIT should raise serious concerns with the members of this subcommittee. Future terrorists with no criminal or terrorism history could possibly exploit the waiver program that currently exempts such countries as Austria, Belgium, France, Germany, Italy, Japan, Singapore, Spain and the United Kingdom to name a few.

In addition, front line legacy Customs and INS inspectors I have talked with have serious concerns with regard to the lack of federal watch list and criminal databases currently being used by the U.S. VISIT program. It is my understanding that currently the U.S. VISIT program uses the traditional Customs (TECS), INS and TSA databases, but does not fully utilize other terrorist and criminal watch lists maintained by other federal agencies such as the State Department and U.S. Marshal's Service. The success or failure of entry/exit programs, such as U.S. VISIT, rely entirely on the quality of information available to the DHS personnel using it. If U.S. VISIT is to be truly successful as a terrorist fighting tool the DHS must lead the effort to consolidate and standardize the federal government's watch list structures and sharing policies to enable front line CBP Officers to successfully accomplish their anti-terrorism missions.

The men and women I work with, as well as the thousands of other CBP Officers across the country are deeply committed to their mission of protecting our borders from terrorism. In order to do that, we must continue to provide these men and women with the resources they need to effectively do their job. Again, I want to thank the subcommittee for the opportunity to share my thoughts on the very important issues concerning the CBP's U.S. VISIT program. I would be happy to answer any questions that subcommittee members may have.

PREPARED STATEMENT OF J. CLARK ROBINSON, PRESIDENT INTERNATIONAL  
ASSOCIATION OF AMUSEMENT PARKS AND ATTRACTIONS

As president of the International Association of Amusement Parks and Attractions, and on behalf the board of directors and our general membership, I appreciate the opportunity to submit testimony for the hearing record on this very important subject.

#### **Introduction**

Founded in 1918, the International Association of Amusement Parks and Attractions (IAAPA) is the largest international trade association for permanently situated amusement facilities worldwide. Headquartered in Alexandria, VA, IAAPA represents over 5,000 member companies from more than 85 countries, including virtually all multi-park companies such as Disney, Universal, Busch Entertainment, Paramount and Six Flags. Our membership includes amusement/theme parks, waterparks, amusement manufacturers and suppliers, family entertainment centers, arcades, zoos, aquariums, museums, and miniature golf venues.

According to *Amusement Business* magazine and other industry analysts, America's 600-plus parks and attractions hosted approximately 322 million visitors in 2003, generating over \$10 billion in revenue. An annual compilation of the world's "Most Visited Amusement/Theme Parks" indicated that the United States had 16 of the top 25 most attended parks globally during the past year. American amusement facilities take great pride in their commitment to providing quality family entertainment to visitors from our own country and countries around the world.

#### **The Need for Safe, Open Borders**

The amusement industry supports enhanced border security measures, understanding that seamlessly safe travel helps to bolster consumer confidence in our product. However, the industry is concerned about the implementation schedule of security measures and the adverse impact it might have on travel by foreign visitors.

Since 9/11, the travel and tourism industry has seen significant decreases in international travel to the United States. Over a two-year period following September 11, 2001, international travel to the U.S. declined twenty percent, resulting in a loss of \$15 billion in visitor spending. Over 300,000 jobs in the travel industry were lost as a product of the decrease in international travel.

While the need to enhance physical safety is paramount, the United States must also be vigilant in ensuring enhanced economic security during that process. As a result, the amusement industry, in conjunction with the entire United States travel industry, cannot support the current congressionally mandated deadline of October 26, 2004 for Visa Waiver Program (VWP) countries to begin issuance of biometric passports to their citizens. We request that VWP countries be provided extra time to phase in these new, more secure documents.

#### **Amusement Industry Supports Biometric Passports, Phase-In Needed**

Both the United States and the international theme park community support implementation of a biometric passport program for Visa Waiver countries. Biometric identification will undoubtedly enhance security by allowing more vigorous screening of visitors. The further development and issuance of machine-readable, tamper-resistant, biometric passports will reduce the number of fraudulent and suspicious passports used to gain illegal entry into this country.

While illegal entry must be prohibited, legitimate travel into the United States must be permitted to continue without significant disruption. The State Department's Bureau of Consular Affairs has indicated that VWP governments will be unable to meet the legislatively mandated deadline to issue biometric passports. It is currently believed that at best, only three of the twenty-seven Visa Waiver countries will be able to meet this deadline, and that none of the larger countries (United Kingdom, Japan, Germany, France, Italy or Spain) will be able to issue biometric passports by October 26, 2004. Officials have indicated that these VWP governments will not be capable of producing biometric passports until late 2005 or 2006.

Visa Waiver travelers with non-biometric passports issued on or after October 26, 2004 will be required to obtain a visa for travel to the United States. As governments in Visa Waiver countries will be unable to issue passports with biometric identifiers, the demand for nonimmigrant visas for travel to the United States will overload the processing abilities of U.S. consulates overseas. The State Department has indicated that the demand for non-immigrant visas would at least double, leaving them unable to process requests in a timely manner.

We fear that these requirements will serve as a disincentive for tourist travel to the United States. The biometric passport deadline for Visa Waiver countries will create an actual barrier for some international travelers and a perceived barrier for others. Fewer international visitors to the U.S. will result in less spending and job loss in the amusement industry across the country.

We suggest that at least a one-year extension of the October 26, 2004 deadline for biometric passports be considered to allow Visa Waiver countries the necessary time to begin issuing biometric passports to their citizens. Extension of this deadline would give VWP governments the opportunity to complete development of these more secure documents while maintaining the flow of Visa Waiver travelers to the United States.

#### **Conclusion**

As U.S. theme parks are just now beginning to recover from the events of the last two years, another barrier to inbound travel would be detrimental to the industry. In 2002, Visa Waiver travelers spent approximately \$38 billion in the United States. Over 10 million international visitors traveled to the United States from VWP countries last year. Congress has recently recognized the importance of international inbound travel, appropriating millions of dollars last year to the Department of Com-

merce to establish programs that will promote travel to the United States in foreign markets.

Extending the biometric passport deadline for Visa Waiver travelers by at least one year would allow the seamless flow of legitimate travel into the United States to continue, while providing VWP governments with the opportunity to successfully meet and comply with requirements mandated by the Border Security Act. Homeland security must be defined as more than a mere protection of the physical. The implementation of security measures must account for the economic health of the nation as well.

I thank you again for the opportunity to submit this testimony for the official record.

#### PREPARED STATEMENT OF THE TRAVEL INDUSTRY ASSOCIATION OF AMERICA

The Travel Industry Association of America (TIA) submits the following comments for the record.

TIA is the national, non-profit organization representing all components of the \$528 billion U.S. travel and tourism industry. TIA's mission is to represent the whole of the travel industry to promote and facilitate increased travel to and within the United States. Our more than 2,000 member organizations represent every segment of the industry throughout the country.

International business and leisure travel to the U.S. is a vital component of our national economy. In 2002, over 42 million international visitors generated \$83.5 billion in expenditures, \$12 billion in federal, state and local tax revenue, and accounted for one million jobs nationwide. International travel and tourism to the U.S. is a service export, and in 2002, generated a positive balance of trade of \$5.5 billion.

International visitation has continually declined over the past three years. Overseas travel to the U.S. was down 31.8 percent in 2003 compared to 2000 levels. This decline has drastically reduced the flow of tax revenue to all levels of government and reduced our international balance of trade. Since 2000, the loss of international travel to the U.S. has cost our economy \$15.3 billion in expenditures.

The decline in travel is due to a variety of reasons, including fear of travel because of terrorism, a downturn in the global economy and confusion over new US. visa and border security procedures. While some of the causes are beyond the reach of an individual country, actions by the U.S. government can either enhance or harm our nation's ability to attract increased international travel to the U.S. and create more jobs and economic opportunities for states and cities across the country. For this reason, the US-VISIT program must be implemented with traveler facilitation as one of its primary goals. Otherwise, international travelers might not wish to return to the U.S., or may be deterred from visiting in the first place.

TIA supports the US-VISIT program as envisioned for airports and seaports. TIA believes that the program meets the Department of Homeland Security's dual missions of protecting the nation's security and economy. By developing a system that verifies the identity of travelers quickly and efficiently, US-VISIT adds to the protection of the homeland while ensuring the continuous flow of legitimate international travelers entering and exiting the country.

However, TIA does have several concerns about the implementation of the US-VISIT program. Congress should seriously consider these issues as the program moves forward.

#### ***Postpone Deadline for Biometrics Passports***

The Enhanced Border Security and Visa Entry Reform Act of 2002 introduced a new security element to traveler documentation: biometric identifiers. Capturing a person's biometric and using it as part of the entry process will allow inspection officials to know the person before them is the same person to whom the passport or visa was issued. Biometrics are just now being incorporated into newly-issued U.S. visas. They will also be required in all new passports issued by the 27 countries participating in the Visa Waiver Program beginning on October 26, 2004.

TIA supports the use of biometrics in travel documents. However, most of the Visa Waiver Program countries will not be ready to issue these newer biometric passports until late 2005 at the earliest. Missing the deadline would mean that many tourist and business travelers from those countries would have to obtain visas for entry into the U.S. The State Department estimates that as many as 5 million VWP travelers would be affected by this deadline.

Forcing Visa Waiver Program travelers to get visas will deal a crippling blow to an already ailing travel industry. Approximately two-thirds of all *overseas* (excluding Canadian and Mexican) business and leisure travelers, or nearly 13.5 million visitors, enter the U.S. under the Visa Waiver Program. Overseas travel to our nation is already down 32 percent over the past three years. Additional losses will



send even more workers from the travel and tourism industry to the unemployment line. It is unrealistic to expect travelers accustomed to visa-free travel to spend the money and time to obtain a U.S. visa to visit our country. Especially when these travelers have many other appealing international destinations that are visa-free. Additionally, the State Department lacks the capacity to meet this potential increase in demand. A loss of those 5 million travelers would cost the U.S. economy \$15 billion in sales and thousands of jobs.

It is important to note that the U.S. Department of State will not be able to start issuing biometric passports until well after the October deadline. While the State Department is not required by law to do so, it is hypocritical for the U.S. to require other countries to do what we cannot.

The October 26 deadline is a Congressional mandate. The Administration does not have the authority to extend the deadline. Therefore, TIA calls on the House Select Committee on Homeland Security to support at least a one-year extension of the October 26 deadline. By doing this, Congress will provide the time necessary to allow these important trade and political allies to begin producing passports in a way that will not discourage inbound international travel to the U.S.

#### ***Concern Over Delays***

TIA is very pleased that enrollment in the program has only added an average of 15 seconds to the normal inspection process. We commend Homeland Security for their efficiency.

It is critical that this level of performance be maintained during peak travel periods and also when the U.S. travel and tourism industry recovers its lost market share. As stated above, overseas travel to the U.S. has dropped by approximately one-third over the past three years. TIA is concerned that Homeland Security will not have sufficient personnel to maintain a 15-second US-VISIT inspection time when international visitation returns to 2000 levels. TIA urges Congress to provide adequate funding so that Homeland Security will have sufficient inspectors available to immediately meet the demands peak travel periods.

While TIA is pleased with the efficiency by which individuals are processed, TIA also believes it is important to process entire flights in a timely manner. The time an individual spends at primary inspection is not the only time issue. There is also the concern over how long an individual waits to finally reach a primary inspection booth. TIA supports the original Congressionally mandated goal of a maximum wait of 45 minutes per individual. Although this mandate was repealed in the Enhanced Border Security and Visa Entry Reform Act of 2002 (PL 107-173), TIA believes it is still a useful and important goal for Customs and Border Protection inspectors to meet. TIA urges Congress to allocate funding to provide sufficient inspectors for the US-VISIT program both to meet the 15-second individual inspection time and to keep the wait in line to under 45 minutes.

If primary inspection is perceived to be too much of a hassle, many visitors will be discouraged from returning to the U.S. in the future. It is critical that the US-VISIT program have the requisite staff to keep wait times and inspection times to a minimum. Otherwise, both our security and our economy will suffer.

#### ***Outreach to Traveling Public***

TIA urges Homeland Security to increase efforts to educate the international traveling public about the US-VISIT program. International travelers coming to the U.S. for business and pleasure should be told who is impacted, and who is not impacted, by this new program. Visitors need to understand in advance what to expect in the process, and what they can do to make the process go more smoothly.

The international traveling public increasingly perceives that the myriad of new security rules is creating a "Fortress America." International travelers do not just consider the impact of a single rule, but view all rules and programs in total. They have noted the increase in visa fees, new visa interview requirements and growing visa denials. They are also aware of machine-readable passport deadlines, the future use of biometric identifiers in U.S. visas and Visa Waiver passports, collection and use of advance passenger information, or API, along with US-VISIT.

By and large, these new rules and requirements make sense from a homeland security perspective, and TIA supports these efforts to enhance national security. But for many prospective international visitors, wave after wave of new travel requirements paint a "big picture" that the United States is becoming a destination that is too difficult to enter, too expensive to visit and simply not worth the effort. In their opinion, the "welcome mat" has been pulled. TIA has heard accounts of how this negative perception has resulted in lost business. While the Department of Homeland Security cannot respond to every misperception and rumor, the opportunity exists to set the record straight on the US-VISIT program and tell international travelers exactly what the program is and who it affects.

In conclusion, Congress must act in two areas to ensure the continued success of the US-VISIT program and allow the U.S. to remain a viable destination for international travelers. Congress must act immediately to extend the October 26 deadline on biometric passports by a minimum of one year. Congress also must ensure that the US-VISIT program has sufficient funds and personnel to meet security and efficiency objectives. TIA also urges the Department of Homeland Security to increase outreach and education efforts to the international traveling public.

